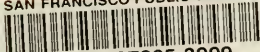


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**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
January 9, 2007  
25 Van Ness Avenue, #70, Lower Level

**AGENDA**

DOCUMENTS DEPT.

JAN - 3 2007

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01-03-07 12: 1 1000

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

POLLY MARSHALL

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 55 Chumasero 11-H

AT060121

One tenant appeals the decision approving a utility passthrough on the grounds of financial hardship.

B. 55 Chumasero 6J

AT060122

One tenant appeals the decision approving a utility passthrough on the grounds of financial hardship.

C. 500 Hyde St. #109

AT060126

The tenant appeals the dismissal of his petition alleging decreased housing services due to his failure to appear at the hearing.

D. 930 Post St. #36

AT060124

One tenant appeals the decision approving a utility passthrough.

E. 20-12<sup>th</sup> St./1601-1605 Market St.

AL060075

(cont. from 9/5/06)





The landlord appeals the decision granting rent reductions due to the landlord's failure to seismically retrofit the building, a Single Room Occupancy Hotel.

F. 1875 Pacific Ave., Apt. #204

AT060120 & -23

The tenant appeals the decision granting a comparables rent increase on substantive grounds as well as financial hardship.

G. 1310 Jones St.

AL060125

The landlord appeals the decision denying approval of a utility passthrough.

VI. Communications

VII. Director's Report

VIII. Old Business

A. Mirkarimi Legislation Requiring Just Cause for the Severance or Removal of Certain Housing Services (Ordinance §37.2(r))

B. Proposed Revision to Rules and Regulations §12.15(d) to Conform to Proposition H re Relocation Payments for Temporary Capital Improvement Evictions

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

X. Calendar Items

XI. Adjournment







## ACCESSIBLE MEETING POLICY

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會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

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## Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

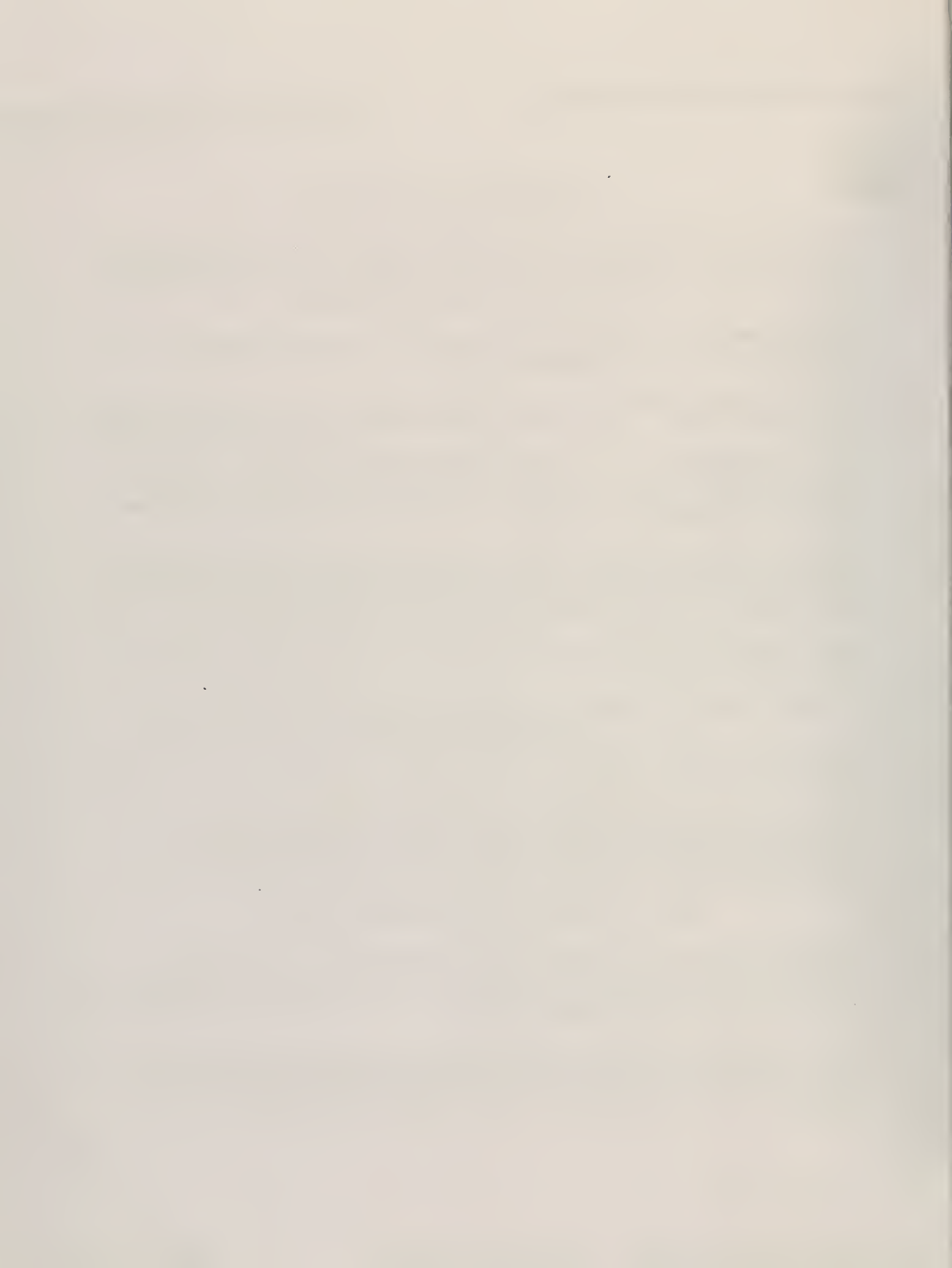
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Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

## Know Your Rights Under the Sunshine Ordinance

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DAVID GRUBER  
PRESIDENT

**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

LARRY BEACH BECKER  
VICE-PRESIDENT

Tuesday, January 9, 2007 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

I. Call to Order

DOCUMENTS DEPT.

President Gruber called the meeting to order at 6:05 p.m.

JAN 19 2007

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II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;  
Marshall; Mosser; Murphy.  
Commissioners not Present: Mosbrucker.  
Staff Present: Lee; Wolf.

Commissioner Justman appeared on the record at 6:10 p.m. Additionally,  
Miguel Bustos, Director of Commissions for the Mayor's Office, briefly  
appeared and introduced himself to the Board members.

III. Approval of the Minutes

MSC: To approve the Minutes of December 12, 2006.  
(Marshall/Gruber: 4-0)

IV. Remarks from the Public

A. Sarah Sherburn-Zimmer of the Central City SRO Collaborative appeared  
on behalf of the tenants at the Civil Center Hotel (AL060075). Ms. Sherburn-  
Zimmer said that she had no dispute with the landlord's contention that the  
building is not a UMB. However, the landlord's two other bases for appeal were  
not well taken because it would have been impossible for the tenants to meet the  
burden of proof; and landlords should be expected to comply with building codes.  
If they do not do so, tenants should be entitled to rent reductions for decreased  
housing services.

V. Consideration of Appeals

A. 55 Chumasero 11-H

AT060121

The landlord's petition for approval of a utility passthrough for 58 of 153 units was granted. The tenants in one unit appeal the decision on the grounds of financial hardship.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Henderson/Justman: 5-0)

MSC: To accept the appeal and remand the case for a hearing on the tenants' claim of financial hardship. (Marshall/Henderson: 5-0)

B. 55 Chumasero 6J

AT060122

The tenant's appeal was filed three days late because the elderly tenant did not know how to file an appeal.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Henderson/Justman: 5-0)

MSC: To find good cause for the late filing of the appeal.  
(Henderson/Marshall: 5-0)

The landlord's petition for approval of a utility passthrough for 68 of 153 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Henderson: 5-0)

C. 500 Hyde St. #109

AT060126

The tenant's petition alleging decreased housing services was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant claims that he misunderstood the ALJ's instructions after a failed mediation, and believed that another hearing would not be scheduled until he filed an amended petition.

MSC: To accept the appeal and remand the case for a new hearing; absent extraordinary circumstances, should the tenant again fail to appear, no further hearings will be scheduled.  
(Marshall/Gruber: 5-0)

D. 930 Post St. #36

AT060124



The landlord's petition for approval of a utility passthrough for 16 of 44 units was granted. One tenant appeals the decision, alleging that: the building manager has taken over what was formerly a common area of the building, possibly resulting in increased utility costs; the garage and storage areas are not made available to the building's tenants; utility costs related to the renovation of vacant units should not be passed through; the tenants' leases provide that steam heat is to be provided free of charge; the landlord is passing through the costs to long-term tenants only; the room count of another tenant in the building is incorrect; and the tenant did not receive a copy of the petition or accompanying memorandum, which explained her right to object.

MSC: To accept the appeal, vacate the decision and remand the case for a new hearing. (Becker/Marshall: 5-0)

E. 20-12<sup>th</sup> St./1601-1605 Market St.

AL060075

(cont. from 9/5/06)

Thirty-four tenants were granted rent reductions in the amount of \$20 per month due to the landlords' failure to seismically retrofit their Single Room Occupancy Hotel, an unreinforced masonry building (UMB). The landlords appealed the decision, claiming that: the tenants failed to meet their burden of proving that the building is a UMB; the building has recently been reinspected and shown to be a steel frame structure, which does not require seismic retrofit; the failure to seismically upgrade a structure does not constitute a decrease in housing services; and there was no evidence that the tenants reasonably expected that the building would be retrofitted, nor that the landlords promised such an upgrade.

A Stipulated Agreement requesting that consideration of this appeal be continued was received from the parties and granted prior to the September 5, 2006 meeting.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the record to deny the tenants' claims based on new evidence that the building is not subject to the Seismic Ordinance. (Marshall/Murphy: 5-0)

F. 1875 Pacific Ave., Apt. #204

AT060120

The landlord's petition for a rent increase from \$400 to \$1,595.00 based on comparable rents was granted. The tenant, the former resident manager of the building, claims hardship as well as asserting that: her due process rights were violated because her request for extension of the open record was denied; there are factual errors in the decision; the landlord should have used comparable units

in the same building as the tenant's unit; and the landlord has harassed the tenant and attempted to evict her from the unit.

After discussion, it was the consensus of the Board to continue consideration of this appeal in order to allow the tenant to provide evidence that she had been precluded from submitting.

G. 1310 Jones St.

AL060125

The landlord's petition for approval of a utility passthrough using the base year 1999 for 20 of 58 units was denied for all units except one. On appeal, the landlord asks to be allowed to file an amended petition, using the base year 2002.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to allow the landlord to submit an amended petition using 2002 as the base year. (Murphy/Gruber: 5-0)

#### VI. Communications.

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A holiday and thank-you card to staff and the Commissioners from former Board President Sharon Wasserman.

B. A proposed amendment to §37.3 of the Ordinance which would allow landlords to impose a \$25.00 monthly rent increase for a new dog or cat in a unit.

C. Articles from the San Francisco Chronicle and San Francisco Daily Journal.

D. An updated copy of the Rent Ordinance and List of Ordinance Amendments.

#### VII. Director's Report

Executive Director Wolf informed the Board that she would be speaking before the Animal Care and Control Commission on January 11<sup>th</sup> regarding the above-referenced proposal to allow a rent increase for a new dog or cat in a unit. The Mayor will be holding a Policy Town Hall Meeting on homelessness on January 13<sup>th</sup>; either Ms. Wolf or Commissioner Becker will appear. Additionally, Commissioner Hurley will be attending the Harvey Milk City Hall Memorial Sculpture Competition on January 10<sup>th</sup>.

VIII. Old Business

A. Proposed Revision to Rules & Regulations §12.15(d) to Conform to Proposition H re Relocation Payments for Temporary Capital Improvement Evictions

The Board discussed a Memorandum from Senior Administrative Law Judge Tim Lee suggesting language to conform Rules §12.15(d) to recently passed Ordinance amendments increasing the amount of relocation payments for temporary capital improvement evictions. The Board then moved as follows:

MSC: To adopt proposed amendments conforming Rules and Regulations 12.15(d) to Proposition H, passed on the November ballot. (Marshall/Murphy: 5-0)

Rules Section 12.15(d) now reads as follows:

(d) Moving Costs

Any landlord who seeks to recover possession of a unit pursuant to Section 37.9(a)(11) of the Ordinance shall pay relocation expenses as provided in Section 37.9C of the Ordinance.

B. Mirkarimi Legislation Requiring Just Cause for the Severance or Removal of Certain Housing Services

The Board continued their discussion of proposed amendments to the Rules and Regulations to implement the Mirkarimi legislation. Senior Administrative Law Judge Tim Lee reported that it is problematic to allow landlords to use parking spaces in residential properties because such spaces are supposed to be for the use of the tenants in the building. Therefore, the new draft regulations add the requirement that a landlord or relative's use of a housing facility be "reasonable and lawful." Additionally, temporary capital improvement and lead remediation work of less than 30 days was carved out as not constituting a severance, although still subject to a decreased housing service petition. There was discussion among the Board members as to whether 30 days constituted a sufficient amount of time. Additional language was added to make clear that a tenant's failure to relinquish a housing service should not lead to eviction from the unit. Commissioner Murphy asked that a "safe harbor" from wrongful eviction be added for landlords acting in good faith but who are unsuccessful in attempting to recover a housing facility. Lastly, the Board decided that a carve-out should be added for services provided after the inception of the tenancy for which there was no additional compensation.

Senior Administrative Law Judge Tim Lee will meet with Commissioner Justman to draft proposed language for the remaining issues and discussion of the new draft will take place at the January 23<sup>rd</sup> Board meeting.

IV. Remarks from the Public (cont.)

B. Tenant Sophie Restar, the former Resident Manager at 1875 Pacific (AT060120 & -23), told the Board that the landlord tried to circumvent the Rent Ordinance and get her out of the unit, including locking her out at midnight. Ms. Restar said that she doesn't want a "second bite of the apple," just due process. She stated that she is indigent, and relied on a contract that said her rent would be \$400 upon termination of her employment.

C. Landlord Jay Greenberg of 1875 Pacific said that the owners of the building respect the rules of the Rent Board, and that it is not true that the tenant was locked out of her unit. Mr. Greenberg alleged that this story is a "fabrication," and said that someone went over to the unit and let the tenant in.

IX. Calendar Items

January 16, 2007 - NO MEETING

January 23, 2007

7 appeal considerations

Old Business: Mirkarimi Legislation (Ordinance §37.2{r})

X. Adjournment

President Gruber adjourned the meeting at 8:50 p.m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
January 23, 2007  
25 Van Ness Avenue, #70, Lower Level

**AGENDA**

DOCUMENTS DEPT.

DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

JAN 19 2007

SAN FRANCISCO  
PUBLIC LIBRARY

01-19-07 11:45 AM

V. Consideration of Appeals

A. 550 Battery St. #1208 AT070003 & -04

The tenant appeals two decisions approving utility passthroughs.

B. 427 Stockton St. #709 AT060128

The tenant appeals the decision approving a utility passthrough on the grounds of financial hardship.

C. 218 Connecticut St. AT070002

The tenant appeals the dismissal of his petition alleging decreased housing services due to his failure to appear at the hearing.

D. 2733 - 20<sup>th</sup> St. AT060127

The tenant appeals the determination that the subject unit is not her principal place of residence pursuant to Rules §1.21.

E. 325-327 Castro St. AL060132

The landlord appeals the decision denying a Petition for Extension of Time to do Capital Improvement Work.

F. 2947 Steiner St.

AL060114 & -15  
(rescheduled from 1/9/07)

The landlord appeals two decisions finding that a rent increase was not authorized by Rules §6.14 or Costa-Hawkins and determining liability for rent overpayments

G. 4 Gerke Alley

AL070001

The landlord appeals the decision determining that the subject unit is the tenant's principal place of residence pursuant to Rules § 1.21.

VI. Communications

VII. Director's Report

VIII. Old Business

Mirkarimi Legislation Requiring Just Cause for the Severance or Removal of Certain Housing Services (Ordinance §37.2{r})

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

X. Calendar Items

XI. Adjournment



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NEVEO MOSSE  
BARTHOLOMEW MURPHY II.

**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, January 23, 2007 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

I. Call to Order

DOCUMENTS DEPT.

President Gruber called the meeting to order at 6:05 p.m.

FEB - 6 2007

II. Roll Call

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Commissioners Present: Becker; Gruber; Henderson; Hurley;  
Justman; Marshall; Mosser; Murphy.  
Staff Present: Lee; Wolf.

Commissioner Mosbrucker appeared on the record at 6:10 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 9, 2007.  
(Becker/Gruber: 5-0)

IV. Consideration of Appeals

A. 550 Battery St. #1208

AT070003 & -04

The tenant's appeal was filed seven weeks late because the tenant did not realize that appeals of utility passthrough decisions had to be filed within fifteen days of mailing of the decision.

MSC: To find good cause for the late filing of the appeal.  
(Becker/Murphy: 5-0)

The landlord filed two petitions for approval of utility passthroughs for 11 of 794 units, which were approved. One tenant appeals both decisions on the grounds of financial hardship.



MSC: To accept the appeals and remand the cases for a hearing on the tenant's claims of financial hardship. (Murphy/Becker: 5-0)

B. 427 Stockton St. #709

AT060128

The landlord's petition for utility passthroughs to 41 of 72 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Murphy: 5-0)

C. 218 Connecticut St.

AT070002

The tenant's petition alleging decreased housing services was dismissed due to his failure to appear at the properly noticed hearing. On appeal, the tenant claims that he assumed his hearing would be combined with that of another tenant in the building, which was at a different time.

MSC: To accept the appeal and remand the case for a new hearing; absent extraordinary circumstances, should the tenant again fail to appear, no further hearings will be scheduled.  
(Becker/Marshall: 4-1; Gruber dissenting)

D. 2733- 20<sup>th</sup> St.

AT060127

The landlord's petition seeking a determination pursuant to Rules Section 1.21 was granted because the Administrative Law Judge found that the subject unit is not the tenant's principal place of residence. On appeal, the tenant's brother, a subtenant in the unit, claims that: the tenant is currently obtaining medical treatment in Puerto Rico, where her son is a doctor, but has not permanently moved there and still considers the subject unit her home.

MSC: To deny the appeal. (Murphy/Gruber: 4-1; Becker dissenting)

E. 325-327 Castro St.

AL060132

The landlord's Petition for Extension of Time to do Capital Improvement Work was denied because the Law Administrative Judge found that the petition was not timely filed and the landlord performed additional, elective work beyond that described in the Notices to Vacate. On appeal, the landlord maintains that: the time requirements in the Rules and Regulations for bringing the Petition are ultra vires; the ALJ was only supposed to decide whether the landlord's time estimate was reasonable; the ALJ failed to recognize the inevitable delays involved in



construction projects in San Francisco; the additional work that became necessary was not foreseeable at the time the Notices to Vacate were given; the ALJ exhibited bias against the landlord in the Decision; the landlord's contractors kept changing their estimates as to how long the work would take; it was reasonable for the landlord to wait to file the petition until he had enough information as to how long the work would take; and the landlord should not be penalized for trying to make appropriate and necessary repairs.

MSC: To deny the appeal but make no determination as to good or bad faith on the part of the landlord. (Marshall/Becker: 5-0)

F. 2947 Steiner St.

AL060114 & -15  
(rescheduled from 1/9/07)

The landlord filed a petition seeking a determination as to whether a rent increase from \$639.42 to \$2,850.00 was authorized by Rules §6.14 and Costa-Hawkins. The Administrative Law Judge (ALJ) found that the landlord was not entitled to an unlimited rent increase because the tenant was not a subtenant or assignee and a 6.14 notice was not timely served. The tenant also filed a petition alleging unlawful rent increases, failure to repair and requesting a determination as to the proper base rent. The failure to repair claim was denied as being moot, the lawful rent was determined to be \$639.42 and the landlord was found liable to the tenant for any sums paid in excess of that amount since February 1, 2006. The landlord appeals both decisions, asserting that: the ALJ's findings are not supported by substantial evidence; the landlord did not waive their right to a Costa-Hawkins rent increase by accepting rent at the lower amount for a short period of time; the landlord never entered into a landlord-tenant relationship with the tenant; the landlord did not rescind the rent increase to \$2,850.00 but, rather, affirmatively took steps to effectuate such increase; the 6.14 notice was served within a reasonable amount of time and, to the extent that §6.14 conflicts with Costa-Hawkins, the regulation is void; only the legislature can create the timeliness presumption contained in Rules §6.14; and the decision is unfair and works a hardship on the landlord.

After discussion the Board passed the following motion:

MSC: To remand the case to the Administrative Law Judge to make additional findings on the following two issues: (1) when did the landlord have "actual knowledge" of Sean McGuirk's occupancy for purposes of service of a notice under Rules and Regulations Section 6.14; and (2) was Sean McGuirk "a lawful sublessee or assignee who did not reside at the dwelling or unit prior to January 1, 1996" under Costa-Hawkins Civil Code Section





1954.53(d)? The landlord's appeal will then be reset for continued consideration by the Board. (Murphy/Gruber: 5-0)

G. 4 Gerke Alley

AL070001

The landlord's petition seeking a determination pursuant to Rules Section 1.21 was denied because the ALJ found that the subject unit is the tenant's principal place of residence. On appeal, the landlord claims that: the landlord did not have an opportunity to respond to post-hearing evidence submitted by the tenant; the landlord was prejudiced by not being allowed to cross-examine the tenant as part of the landlord's prima facie case; the tenant is currently residing at her Santa Barbara residence; the burden of proof in this case should have shifted to the tenant; and the notice of rent increase was mailed at the time the petition was filed and should not be found to be null and void.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

V. Communications

In addition to correspondence concerning cases on the calendar, the Board received the following communications:

A. The office workload statistics for the month of December, 2006.

B. A Memorandum from Senior Administrative Law Judge Tim Lee with revised draft regulations implementing Ordinance §37.2(r) requiring just cause for removal of specified housing services.

VI. Director's Report

Executive Director Wolf regrettably informed the Board that Joe Lacey, a tireless advocate for tenants and the elderly, passed away recently. He will be greatly missed.

VII. Old Business

Mirkarimi Legislation Requiring Just Cause for the Severance or Removal of Certain Housing Services (Ordinance §37.2(r))

The Board continued their discussion of proposed amendments to the Rules and Regulations to implement the Mirkarimi legislation and went over the newest draft. The Board members talked about how balancing the legislation with the Golden Gateway decision is not "black and white," and most Commissioners seemed to feel that a 90-day carve-out for temporary capital improvement work is



reasonable. Likewise, the Board agreed with the addition to Section 13.11(b) that specifies that no civil or criminal liability shall be imposed on a landlord who seeks to sever a housing facility in good faith for a listed just cause; the language appropriately mirrors the language used in the Ordinance regarding attempted evictions when tenants are claiming protected status. The notice requirement, Section 13.12, was changed to be more explicit as to how the severance must be effectuated. Commissioner Becker then brought up several concerns, including whether there should be no civil or criminal liability on the part of landlords; whether severance of housing services that were provided for no additional consideration should be allowed; and whether allowing a landlord to permanently remove housing services under Section 13.11(a)(4) will lead to abuses. Consideration of this issue was continued until the next meeting in order for Commissioner Becker to draft some language to address his concerns regarding permanent removal of housing services.

VIII. Calendar Items

January 30, 2007 - NO MEETING

February 6, 2007

2 appeal considerations

Old Business: Mirkarimi Legislation (Ordinance §37.2{r})

New Business: Departmental Budget

IX. Adjournment

President Gruber adjourned the meeting at 8:50 p.m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, 6:00 p.m.,  
February 6, 2007  
25 Van Ness Avenue, #70, Lower Level

**AGENDA**

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I. Call to Order

FEB - 6 2007

II. Roll Call

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III. Approval of the Minutes

02-06-07A11:20 AM

IV. Remarks from the Public

**NOTE:** Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 2124 Hyde St.

AL070005

On appeal, the landlord requests that the Rent Board change its policy of not determining the value of tenant decreased housing services pursuant to a landlord petition.

B. 2143 Taylor St.

AL070008

The Master Tenant appeals the decision holding him liable for rent overpayments pursuant to Rules §6.15C(3).

VI. Communications

VII. Director's Report

VIII. Old Business

Mirkarimi Legislation Requiring Just Cause for the Severance or Removal of Certain Housing Services (Ordinance §37.2(r))





IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

Departmental Budget

X. Calendar Items

XI. Adjournment





## ACCESSIBLE MEETING POLICY

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DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, February 6, 2007 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

I. Call to Order

President Gruber called the meeting to order at 6:05 p.m.

Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;  
Marshall; Mosbrucker.  
Commissioners not Present: Mosser.  
Staff Present: Lee; Wolf.

Commissioner Justman appeared on the record at 6:08 p.m.;  
Commissioner Murphy arrived at the meeting at 6:10 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of January 23, 2007.  
(Becker/Hurley: 4-0)

IV. Remarks from the Public

Amir Zavieh, the tenant at 2124 Hyde St. (AL070005), told the Board that the landlord's appeal should be denied because the tenant never filed a petition alleging decreased housing services, and merely complained of inconveniences caused by construction on the premises. Mr. Zavieh said that his complaint had nothing to do with the Rent Board.

V. Consideration of Appeals

A. 2124 Hyde St.

AL07005

The landlord filed a petition requesting a determination of the tenants' lawful base rent. Specifically, the landlord asked the Rent Board to determine whether the

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tenants' base rent is appropriate taking into consideration the value of decreased housing services alleged by the tenants. The petition was dismissed because the Rules and Regulations provide no authority for a landlord to file such a petition, and the tenant(s) may not wish to pursue the claim at the Rent Board. The landlord appeals, asserting that: there is nothing in the Ordinance to prohibit such a filing; the Rent Board allows landlords to file petitions on "Other" grounds, including determinations of lawful base rent; refusal to hear these petitions constitutes a denial of due process and equal protection and exposes landlords to increased liability; and the courts increasingly rely on local rent boards to make such determinations.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

B. 2143 Taylor St.

AL070008

The tenant's petition was granted and the Master Tenant was found liable to the tenant for utility overcharges, rent overpayments pursuant to Rules §6.15C(3) and a sum granted to the tenant in a prior decision that was never paid. The Master Tenant's appeal of the decision was accepted and remanded for a new hearing, to include the issue of hardship to the Master Tenant. The remand decision finds the Master Tenant liable to the tenant in the amount of \$8,100.98, to be offset from the tenant's rent at the rate of \$200 per month due to the financial hardship of the Master Tenant. The Master Tenant appeals the remand decision, claiming that: the Administrative Law Judge violated the Master Tenant's confidentiality by revealing private medical information in the decision; Rules §6.15C(3) is unfair in that it gives Master Tenants all the responsibilities but none of the benefits of being a landlord; he has been harassed by the tenant; the ALJ's division of the space and amenities in the unit was disproportionate; and the decision will result in the displacement of all tenants from the unit.

MSC: To deny the appeal except to remand the case to the  
Administrative Law Judge for a Technical Correction to strike  
medical information regarding the Master Tenant.  
(Marshall/Gruber: 5-0)

## VI. Communications

The Commissioners received the following communications:

A. Legislation passed by the Board of Supervisors and signed by the Mayor on January 18, 2007, exempting housing for victims of domestic violence from compliance with the Uniform Visitor Policy for residential hotels.



B. An article from the January 27, 2007 New York Times regarding the increased use of private investigators to ferret out proof of violations of the local rent ordinance.

VII. Old Business

Mirkarimi Legislation Requiring Just Cause for the Severance or Removal of Certain Housing Services

The Board continued their discussion of proposed amendments to the Rules and Regulations to implement the Mirkarimi legislation, working off of Senior Administrative Law Judge Tim Lee's January 12<sup>th</sup> revised draft. Commissioner Becker expressed his concern that §13.11(a)(4), which allows for permanent removal of a housing facility, could be used as an "end run" around the necessity for just cause even with the requirement that the landlord be acting in good faith. Commissioner Marshall suggested that the language be amended to say (new language underlined): "The landlord seeks to recover possession in good faith for a legitimate purpose in order to demolish or to otherwise permanently remove the housing facility from use and has obtained all the necessary permits on or before the date upon which notice to vacate is given, and does so without ulterior reasons and with honest intent." Additionally, the Board agreed with new language carving out from the just cause requirement reasonable accommodations due to disability that are intended to be temporary in nature. With the above additions, the Board voted as follows:

MSC: To put proposed draft regulations implementing Ordinance §37.2(r) requiring just cause for removal of specified housing services out for Public Hearing. (Justman/Murphy: 5-0)

VIII. New Business

Departmental Budget

MSC: To approve the proposed departmental budget for fiscal year '07-'08. (Justman/Marshall: 5-0)

IX. Calendar Items

February 13, 2007 - NO MEETING

February 20, 2007

8 appeal considerations

6:30 Public Hearing: Mirkarimi Legislation (Ordinance §37.2{r})



X. Adjournment

President Gruber adjourned the meeting at 7:15 p.m.







**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
February 20, 2007

25 Van Ness Avenue, #70, Lower Level

**AGENDA**

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02-20-07A11: 1:00 PM

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

POLLY MARSHALL

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes

IV. Remarks from the Public

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V. Consideration of Appeals

A. 202 Font Blvd.

AT070006

One tenant appeals the decision granting a utility passthrough on the grounds of financial hardship.

B. 295 Graystone Terr. #1

AT070014

One tenant appeals the decision granting certification of capital improvement costs on the grounds of financial hardship.

C. 550 Battery #1120

AT070010 & -11

One tenant appeals two decisions granting utility passthroughs on the grounds of financial hardship.

D. 580 McAllister #410

AT070016

One tenant appeals the decision granting a utility passthrough on the grounds of financial hardship.





E. 407 Broadway #8

AT070015

The tenant appeals the decision determining that the unit is not her principal place of residence due to her failure to appear at the hearing, claiming non-receipt of notice.

F. 363 – 22<sup>nd</sup> Ave. #3

AL070009

The landlord appeals the decision determining liability for rent overpayments and finding that there is no available banking.

G. 550 Battery #1409

AT070012 & -13

The tenant appeals two decisions granting utility passthroughs on the grounds of financial hardship.

H. 610 Hyde St. #205, 303, 306, 403 & 606

AT070017 thru -21

The tenants in five units appeal the decision approving utility passthroughs on the grounds of financial hardship.

VI. Public Hearing

6:30 Mirkarimi Legislation Requiring Just Cause for the Severance or Removal of Certain Housing Services

VII. Communications

VIII. Director's Report

IX. Old Business

IV. Remarks from the Public (cont.)

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X. New Business

XI. Calendar Items

XII. Adjournment





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DAVID GRUBER  
PRESIDENT

February 7, 2007

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

LARRY BEACH BECKER  
VICE-PRESIDENT

## **NOTICE OF PUBLIC HEARING**

DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

<b>DATE:</b>	<b>FEBRUARY 20, 2007</b>
<b>TIME:</b>	<b>6:30 P.M.</b>
<b>PLACE:</b>	<b>25 VAN NESS AVENUE (AT MARKET STREET) SUITE 70, LOWER LEVEL SAN FRANCISCO, CALIFORNIA</b>

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THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON PROPOSED CHANGES TO THE RULES AND REGULATIONS GOVERNING THE RESIDENTIAL RENT STABILIZATION AND ARBITRATION ORDINANCE, CHAPTER 37 OF THE SAN FRANCISCO ADMINISTRATIVE CODE.

THE COMMISSION IS TAKING PUBLIC COMMENT ON PROPOSED NEW PART XIII AND AN AMENDMENT TO SECTION 12.20, WHICH ARE ATTACHED TO THIS NOTICE, AND WHICH ARE INTENDED TO IMPLEMENT THE RECENTLY PASSED "MIRKARIMI LEGISLATION."

ORDINANCE NO. 178-06 SPONSORED BY SUPERVISOR MIRKARIMI BECAME LAW ON AUGUST 8, 2006. THE ORDINANCE REQUIRES A LANDLORD TO HAVE JUST CAUSE TO REMOVE OR SEVER CERTAIN HOUSING SERVICES FROM A TENANCY. SPECIFICALLY, THE ORDINANCE ADDED THE FOLLOWING PARAGRAPH TO SECTION 37.2(r):

Garage facilities, parking facilities, driveways, storage spaces, laundry rooms, decks, patios, or gardens on the same lot, or kitchen facilities or lobbies in single room occupancy (SRO) hotels, supplied in connection with the use or occupancy of a unit, may not be severed from the tenancy by





**the landlord without just cause as required by Section 37.9(a). Any severance, reduction or removal permitted under this Section 37.2(r) shall be offset by a corresponding reduction in rent. Either a landlord or a tenant may file a petition with the Rent Board to determine the amount of the rent reduction.**

**TO IMPLEMENT THE ORDINANCE AMENDMENT, THE RENT BOARD HAS PROPOSED THE ATTACHED REGULATIONS, WHICH SET FORTH THE JUST CAUSES AND THE REQUIRED PROCEDURES FOR SEVERING THE SPECIFIED HOUSING SERVICES FROM A TENANCY.**

You may either comment at the Public Hearing and/or submit written comments. If you would like to submit written comments, it is requested that they be received at the Department no later than **5 p.m. on Wednesday, February 14th, 2007**, so that the Commissioners can be mailed your comments and review them prior to the hearing. Written comments may also be submitted at the hearing. Please submit 12 copies of your comments in order to facilitate their distribution. You will be able to address the Commissioners during the public comment period at the hearing. The proposed regulations read as follows below:

A new Part XIII shall be added as follows:

**Part XIII – Severance of Housing Facilities Under Ordinance Section 37.2(r)**

**Section 13.10 Severance of Housing Facility-Just Cause**

**Required**

(a) A "housing facility" means garage facilities, parking facilities, driveways, storage spaces, laundry rooms, decks, patios, or gardens on the same lot, or kitchen facilities or lobbies in single room occupancy (SRO) hotels, supplied in connection with the use or occupancy of a unit. Such a housing facility may not be severed from the tenancy by the landlord unless one of the just causes listed in Section 13.11 is the landlord's dominant motive for recovering possession of the housing facility and the landlord has complied with the notice requirements set forth in Section 13.12.

(b) The following shall not constitute a severance of a housing facility for purposes of this Section: (1) the temporary removal of a housing facility for ninety (90) or fewer days to perform capital improvement or lead remediation



work or necessary repair and maintenance work at the building, including use of the housing facility for keeping equipment and materials used in connection with such work, and (2) the severance of a housing facility that was added after the commencement of the tenancy either as a reasonable accommodation of a tenant's disability requested by the tenant or for no additional consideration. Nothing in this subsection shall affect the right of a tenant to a rent reduction for any substantial decrease in housing services under Rules and Regulations Section 10.10.

**Section 13.11 Just Causes Defined**

(a) A landlord shall not endeavor to recover possession of a housing facility unless:

(1) The tenant is committing or permitting to exist a nuisance in, or is causing substantial damage to, the housing facility, or in using the housing facility, the tenant is creating a substantial interference with the comfort, safety or enjoyment of the landlord or tenants in the building, and the nature of such nuisance, damage or interference is specifically stated by the landlord in the writing as required by Section 13.12; or

(2) The tenant is using or permitting a housing facility to be used for any illegal purpose; or

(3) The landlord seeks to recover possession in good faith, without ulterior reasons and with honest intent:

(i) For the landlord's reasonable and lawful use for a period of at least 36 continuous months;

(ii) For the reasonable and lawful use of the landlord's grandparents, grandchildren, parents, children, brother or sister, or the landlord's spouse or the spouses of such relations, for a period of at least 36 months, when such relative resides in the building as his or her principal place of residence.

For purposes of this Section, the term spouse shall include Domestic Partners as defined in San Francisco Administrative Code Chapter 62.1 through 62.8.

The term landlord shall be defined as an owner of record of at least 25



percent interest in the property. If any housing facility severed under this section is offered again for rent during the tenant's tenancy, the landlord must first provide the tenant with written notice of the right to re-rent the housing facility upon payment of additional rent in the amount of the corresponding rent reduction; or

(4) The landlord seeks to recover possession in good faith for a legitimate purpose in order to demolish or to otherwise permanently remove the housing facility from use and has obtained all the necessary permits on or before the date upon which notice to vacate is given, and does so without ulterior reasons and with honest intent. If any housing facility severed under this section is offered again for rent during the tenant's tenancy, the landlord must first provide the tenant with written notice of the right to re-rent the housing facility upon payment of additional rent in the amount of the corresponding rent reduction; or

(5) The landlord seeks in good faith to temporarily remove the housing facility from use for more than ninety (90) days in order to be able to carry out capital improvements or rehabilitation work, or to use the housing facility for keeping equipment and materials used in connection with capital improvements or rehabilitation work performed at the building, and has obtained all the necessary permits on or before the date upon which notice to vacate is given, and does so without ulterior reasons and with honest intent. On or before the date upon which notice to recover possession of the housing facility is given, the landlord shall advise the tenant in writing that the rehabilitation or capital improvement plans are on file with the Central Permit Bureau of the Department of Building Inspection and that arrangements for reviewing such plans can be made with the Central Permit Bureau. The tenant will vacate the housing facility only for the minimum time required to do the capital improvement or rehabilitation work. Immediately upon completion of the work, the landlord shall provide written notice to the tenant of the right to re-use the housing facility, and the corresponding rent reduction shall terminate; or



(6) The landlord seeks in good faith to temporarily recover the housing facility for more than ninety (90) days in order to carry out lead remediation or abatement work, as required by San Francisco Health Code Articles 11 or 26. The tenant will vacate the unit only for the minimum time required to do the work.

(b) In no event shall the tenant's failure to comply with a notice to sever a housing facility under subsections 13.11(a) above be grounds for recovery of possession of the tenant's rental unit. Nothing in this Section shall otherwise affect the rights of a landlord to recover possession of a rental unit pursuant to Ordinance Section 37.9(a). No civil or criminal liability under Ordinance Section 37.9(e) or (f) shall be imposed upon a landlord who seeks to sever a housing facility in good faith for a just cause listed in Section 13.11 above.

(c) An owner who resides in the same rental unit with his or her tenant may recover possession of a housing facility without just cause as required under Section 13.10 above.

**Section 13.12 Notice Requirements**

(a) At least 30 days prior to severing a housing facility, the landlord must serve the tenant a written notice of change in terms of the tenancy stating one of the just causes under Section 13.11 above and the amount of the corresponding rent reduction for the housing facility. The notice shall also state that advice regarding the notice is available from the Residential Rent Stabilization and Arbitration Board, and that if the tenant contests either the recovery of the housing facility or the amount of the corresponding rent reduction stated in the notice, the tenant or the landlord may file a petition with the Board to determine whether just cause exists for recovery of the housing facility and/or the amount of the corresponding rent reduction. A copy of the notice shall be filed with the Board within ten (10) days following service of the notice on the tenant.

(b) A landlord or tenant may file a petition with the Board to determine whether just cause as stated in the notice exists for severance of a housing facility and/or the amount of the corresponding rent reduction. Such a petition





shall be filed on a form supplied by the Board. However, nothing in this Section shall prevent a landlord, after expiration of the notice period, from seeking possession of the housing facility through a civil action in court.

**Section 13.13 Reports of Alleged Wrongful Severance**

The Board shall adopt a form for reports of alleged wrongful severance of a housing facility. Upon submission to the Board of a completed Report of Alleged Wrongful Eviction, the Board shall send a notice acknowledging receipt of the report and summarizing the rights and responsibilities of landlords and tenants regarding severance of housing facilities to both landlord and tenant, without fee.

**Existing Section 12.20 shall be amended as follows (striketthrough for deletions and underline for additions):**

**Section 12.20 Evictions under Section 37.9(a)(2)**

**(a) Unilaterally Imposed Obligations and Covenants**

For purposes of an eviction under Section 37.9(a)(2) of the Ordinance, a landlord shall not endeavor to recover possession of a rental unit because of the tenant's alleged violation of an obligation or covenant of the tenancy, if such obligation or covenant was unilaterally imposed by the landlord and not agreed to by the tenant and either was not included, or is not materially the same as an obligation or covenant in the rental agreement mutually agreed to by the parties. The foregoing shall not apply to: (1) changes in obligations or covenants that are not material; (2) changes in material obligations or covenants required by law or to protect the health, safety and quiet enjoyment of the occupants of the building or adjoining properties; ~~or (3) material changes that have resulted in a substantial decrease in housing services with respect to garage, storage space, or access to common areas for which a commensurate rent reduction has been provided by the landlord;~~ and (4) rent increases or other changes in the terms of a tenancy authorized under the Rent Ordinance and Rules and Regulations.





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**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, February 20, 2007 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

I. Call to Order

President Gruber called the meeting to order at 6:10 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;  
Justman; Mosbrucker.  
Commissioners not Present: Marshall; Mosser.  
Staff Present: Lee; Wolf.

Commissioner Murphy appeared on the record at 6:45 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of February 6, 2007.  
(Becker/Mosbrucker: 5-0)

IV. Remarks from the Public

A. Tenant Brian Browne of 550 Battery #1409 (AT070012 & -13) told the Board that the Rules and Regulations regarding utility passthroughs specify that the base year charges have to be investigated, and that wasn't done in his case. Mr. Browne believes that the PG&E bills in 1980 shouldn't be compared to present dollars, which works a hardship on elderly residents; that PG&E is included in the base rent at the inception of the tenancy; and that PG&E rates increase at the rate of the CPI, which includes power. Mr. Browne also maintains that his lease said that he was to receive no increase in 2005, and the landlord shouldn't be able to get it later retroactively.

B. Tenant Ernestine Weiss resides at the Golden Gateway complex and agrees with the points raised by Mr. Browne. Ms. Weiss feels that the landlord is taking advantage of the complex's older tenants, who they want to get rid of. Ms.

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Weiss feels that this practice should be illegal, as it is "raping the public."

V. Consideration of Appeals

A. 202 Font Blvd.

AT070006

The landlord's petition for approval of a utility passthrough in this multi-unit complex was granted. The tenants in one unit appeal the decision on the grounds of financial hardship.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Henderson/Mosbrucker: 5-0)

MSC: To accept the appeal and remand the case for a hearing on the tenants' claim of financial hardship.  
(Henderson/Mosbrucker: 5-0)

B. 295 Graystone Terr. #1

AT070014

The tenant's appeal was filed almost four years late because the tenant was allegedly too ill to file at the time the decision was issued.

MSC: To find good cause for the late filing of the appeal.  
(Becker/Mosbrucker: 3-2; Gruber, Hurley dissenting)

The landlord's petition for certification of capital improvement costs to 2 of 4 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Mosbrucker: 5-0)

C. 550 Battery #1120

AT070010 & -11

The landlord filed two petitions for approval of utility passthroughs in this multi-unit complex. One tenant appeals the decisions on the grounds of financial hardship.

MSC: To accept the appeals and remand the cases for a hearing on the tenant's claims of financial hardship.  
(Becker/Mosbrucker: 5-0)

D. 580 McAllister #410

AT070016





The landlord's petition for approval of a utility passthrough to 28 of 75 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Mosbrucker/Becker: 5-0)

E. 407 Broadway #8

AT070015

The landlord's petition for a determination pursuant to Rules §1.21 was granted and the ALJ found that the subject unit is not the tenant's principal place of residence. The tenant, who failed to appear at the properly noticed hearing, claims on appeal not to have received notice of the hearing. Attached to the appeal is the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a new hearing. Should the tenant again fail to appear, absent extraordinary circumstances, no further hearings will be scheduled. (Becker/Mosbrucker: 5-0)

F. 363 – 22<sup>nd</sup> Ave. #3

AL070009

The tenants' petition alleging an unlawful rent increase was granted and the landlord was found liable in the amount of \$342.06 due to rent overpayments. The tenants' lawful base rent was determined to be \$815.68 and the landlord was found not to have any entitlement under the banking provisions of the Rules and Regulations. On appeal, the landlord provides additional information regarding the tenants' rent history pertaining to the availability of banked rent increases.

MSC: To deny the appeal. (Becker/Mosbrucker: 3-2; Gruber, Hurley dissenting)

G. 550 Battery #1409

AT070012 & -13

Two petitions for approval of utility passthroughs in this multi-unit complex were granted. One tenant appeals the decisions on the grounds that: he wishes to have a hearing before an Administrative Law Judge; the landlord's utility costs are already embedded in his base rent; allowable annual rent increases more than cover the landlord's increased utility costs; authorizing the use of a base year that is 25 years prior to the comparison year creates exaggerated results that are not indexed for inflation; the landlord has failed to prove its utility costs in 1980; and utility passthroughs fall disproportionately on the elderly, who tend to be on fixed incomes.

MSC: To deny the appeals. (Mosbrucker/Justman: 5-0)



H. 610 Hyde St. #205, 303, 306, 403 & 606

AT070017 thru -21

The landlord's petition for approval of a utility passthrough to 16 of 32 units was granted. The tenants in five units appeal the decision on the grounds of financial hardship.

MSC: To accept the appeals and remand the cases for hearings on the tenants' claims of financial hardship. (Mosbrucker/Becker: 5-0)

## VI. Public Hearing

### Mirkarimi Legislation Requiring Just Cause for the Severance or Removal of Certain Housing Services

The Board convened a Public Hearing at 6:35 p.m. to consider proposed amendments to the Rules and Regulations to implement the Mirkarimi legislation, which requires a just cause reason for the landlord's severance or removal of certain housing services. Thirty individuals spoke as follows:

1. Tenant Lorraine Calcagni asked that the legislation not be weakened since she is paying off \$71,000 in capital improvement costs and cannot afford any more extras on top of her rent. Ms. Calcagni is concerned about losing her garage.

2. Tenant Don Feinberg had a problem with the language regarding unilateral changes in the terms of a tenancy and read a letter he sent to his landlord concerning his placement of a rug and chair in the foyer of the building. Mr. Feinberg believes that the Board should allow oral modifications to contracts.

3. Tenant Maryanne Kayratos said that the way that the just causes in the proposed rules are defined waters down the Mirkarimi legislation, which was clear. Mr. Kayratos believes that landlords take away garages to harass tenants, and wondered who is going to determine what constitutes honest intent. She also wondered why a landlord's relatives should be given precedence over long-term tenants.

4. Sean Pritchard of the S.F. Apartment Association told the Board that, with San Francisco's aging housing stock, it is important to "incentivize repairs," because landlords won't make them if it's "too much hassle."

5. Small landlord Andrew Long told the Board he realized the Mirkarimi legislation was not their fault, but he believes it only makes things worse because it "gets the City involved in micro-managing landlord/tenant relationships. Mr. Long believes that it will result in landlords not offering housing services. As an



example, Mr. Long said that he would not be able to replace free with coin-operated laundry facilities when the free service is no longer economically feasible. Mr. Long also pointed out that many projects take longer than 90 days to complete.

6. Tenant Attorney Eric Lifschitz pointed out that being a landlord in San Francisco entails being highly regulated. Mr. Lifschitz suggested that proposed §13.11(a)(i) be amended to require that the landlord reside in the building as their principal place of residence, as is required for the landlord's relative in §13.11(a)(ii). Mr. Lifschitz argued that the section that removes civil and criminal penalties for a good faith attempt to remove a housing service should be deleted.

7. Tenant Helen Fellows is also paying a large capital improvement passthrough in a case where the landlord was not required to submit subcontractor invoices. Ms. Fellows said that it would be "devastating" to lose her garage, as she uses her car to tutor. Ms. Fellows feels that a lease is "sacred," and she is afraid that something "unfair" will happen again.

8. Tenant Attorney Wally Oman said that there are many contradictions in the proposed regulations. He suggested that, in order not to exceed its jurisdiction, the Rent Board propose a "friendly" amendment to the Board of Supervisors which would result in clean-up legislation rather than litigation.

9. Tina Di Rienzo of the Golden Gateway Center thanked the Board for trying to create a 30-90 day window for the performance of necessary repair work, but suggested that anything stating specific periods of time be deleted. Ms. Di Rienzo argued that the only necessary distinction is between permanent and temporary removals of housing services. She reminded the Commissioners that the Golden Gateway decision resulted from a 4-month project. She asked that landlords not be penalized for trying to take care of their properties.

10. Small landlord Donald Stroh read a statement regarding the law of unintended consequences in passing regulations restricting the rights of property owners and argued for a means test to eliminate rent control on rentals whose occupants earn over \$50,000 annually.

11. David Fix, President of the Small Property Owners of San Francisco, commended the Board's efforts to come up with regulations and said that he believed the Mirkarimi legislation was supposed to apply to permanent removals of services only. Mr. Fix argued that projects can take more than 90 days; only housing facilities written in to the lease should be covered; ADA required removals are not contemplated in the proposed regulations; and building code violations and economic unfeasibility should be just causes for removal.



12. Small landlord Brian Wallace said that foundation work and seismic retrofits take more than 90 days, and a tenant could file a petition if the landlord is taking too much time.

13. Small landlord Jeremiah Casey said that each bit of legislation makes it more difficult for small landlords to operate, and asked that landlords be respected as well as tenants.

14. Joel Panzer of the Professional Property Management Association asked that covered housing facilities be limited to those specified in a written agreement. Mr. Panzer explained that new property managers take over a building and often have no idea as to who's entitled to which services; in a form of "adverse possession," tenants wind up with something they didn't originally have a right to, and expand into the common areas of the building.

15. Victoria Tedder of the Independent Living Resource Center, an organization that assists the disabled, said that many of the calls they get have to do with services being taken away. She argued that "reasonable accommodation" is an undesirable term because a process exists for reasonable accommodations and the rent law would be limiting civil rights law.

16. Tenant Chris Barros said that his landlord is attempting to take his garage away for the use of an incoming tenant. He said that he and his landlord are working together to work the situation out.

17. Brook Turner of the Coalition for Better Housing thanked the Board for their efforts. Mr. Turner read from the S.F. Bay Guardian editorial urging that the Mayor sign the legislation, arguing that it was just "basic fairness." Mr. Turner said that the legislation was not meant to act as a deterrent to construction and necessary projects, nor obstruct temporary construction or upgrading a building.

18. Small landlord Meg Ruxton said that she has space in the basement of her building that she could rent out to her tenants for storage, but now she is afraid to do so. She also wondered if she could later turn it into a laundry facility.

19. Ted Roberts, Chris Barros' landlord, said that he rented Mr. Barros the garage space month-to-month, but that it wasn't in the lease. Mr. Roberts doesn't want to "divvy up" the garden, storage and parking spaces, and said that he is "totally confused." He now feels it was naive to separate the parking rent from the lease.

20. Ted Gullickson of the Tenants' Union said that the proposed rules contradict the Ordinance and that some just causes make sense and some don't. Although a landlord cannot move in to a housing facility, Mr. Gullickson argued





that there is no provision in the Ordinance for landlord "use" and this doesn't make sense and shouldn't be included. Mr. Gullickson believes that the tenant fault just causes, such as non-payment of rent, should be included. Mr. Gullickson also feels that §13.11(a)(4) (permanent removal) allows a landlord to take away services for no reason, and needs to be tied in to permits or a government order for demolition or removal. Mr. Gullickson believes that these proposed regulations would result in litigation if passed as is.

21. Small landlord Tanya Yurovsky asked several questions and said that small landlords do not have the purchasing power of large corporations: contractors show up when they show up. Mr. Yurovsky said that there is a roof garden on her building which her insurance company has said she must remove; she is afraid that her tenant will file for a rent reduction. She asked that the definition of housing services be limited to what's in the lease; otherwise, what's included is too unclear.

22. Small landlord Lee Anderson lives in the building and shares the facilities with his tenant. Mr. Anderson doesn't charge extra for housing services, which are not on the lease, and doesn't feel that he should have to justify this to anyone.

23. Small landlord Remi Nadeau said that the proposed regulations could have the opposite effect: as tenants come and go, the landlord will put the garden and laundry off-limits to new tenants. Mr. Nadeau asked that the Board take unintended consequences into account.

24. Small landlord John Perkins lives in his 4-unit building and asked the Board to give him flexibility, since his instinct is to say yes.

25. Tenant Chester Zemany reminded the Board that the legislation was passed because landlords were taking away services to drive tenants out. For this reason, the legislation should be interpreted in the way most favorable to tenants. Mr. Zemany said that the landlord should have to live in the building to take away services for their own use.

26. Miguel Wooding of the Tenants' Union and Eviction Defense Collaborative said that the underlying purpose of the legislation was to prevent landlord abuses and harassment. Mr. Wooding believes that, if the Board incorporates the reasons for eviction but no protections, it has abrogated the intent of the Ordinance. He said that it is not their job to agree or disagree with the legislation but only to implement regulations that comport with the Ordinance. If one of the just cause reasons for eviction specified in the Ordinance doesn't work for this purpose, it can't be used.



27. Tenant C.S. Gordon, a disabled senior and attorney, said that the regulations exist to implement the statute. She believes that the proposed language on temporary accommodations constitutes "open season on people with disabilities." Ms. Gordon feels that civil rights are the purview of federal, state and local laws. She said that the Ordinance requires the landlord to live in and not just use, the housing service. She said that the proposed regulations leave vulnerable tenants with few options.

28. Small landlord Doug Holloway said that he gets along with his tenants and doesn't anticipate problems. He feels that the service should be "supplied" in writing and the removal should be in conjunction with the landlord's occupancy, not use. He does not think that the Ordinance should have retroactive effect and alter existing leases.

29. Jenny Hunt said that the regulations shouldn't apply to oral agreements and that tenants wouldn't expect it to apply.

30. Tenant Resa Meyer said she was sympathetic with the small landlords present. However, she was never given a copy of her lease, and wouldn't be able to prove the agreements she has with her current landlords to a new owner. She believes it is necessary to look at the intent of the parties, and said she wants to be protected too.

At the conclusion of the Public Hearing at 7:50 p.m., the Board discussed the testimony and went over some minor amendments with Senior Administrative Law Judge Tim Lee: in conjunction with the City Attorney and the Mayor's Office of Disability, it was made clear that the carve-out for reasonable accommodations due to disability only applies to disabilities that are temporary in nature; and notice requirements are no longer specifically laid out. The Commissioners then discussed whether or not it is advisable for the Board to pass regulations, including whether or not the proposed regulations are ultra vires and whether it is possible to implement the Ordinance as written in a way that makes sense. Commissioner Henderson wondered how to write something that stops abuses without exceeding the Board's jurisdiction, while Commissioner Murphy said that the Supervisors chose not to straighten it all out, but that it would be unfair to the Board's constituencies for the Commissioners not to try. Commissioner Justman wondered whether it might be best to just "let the chips fall where they may." It was agreed that Commissioners Murphy and Becker would communicate about these issues and report back to the Board at the next meeting, when this issue will be continued.

## VII. Communications



The Board received several communications regarding the proposed regulations to implement the Mirkarimi legislation.

VIII. Director's Report

Executive Director Wolf gave the Board this year's Statements of Economic Interest (Form 700) and told them the form and a copy are due to the Ethics Commission by April 2<sup>nd</sup>.

IV. Remarks from the Public (cont.)

C. Chester Zemany suggested that, if repair work takes longer than 90 days, tenants could file for relocation benefits.

D. Miguel Wooding said that any "tinkering" with the proposed regulations should include deleting the owner move-in provision. Mr. Wooding does not believe that non-payment of garage rent could be the basis for severance of the garage, as currently written. He also feels that the demolition just cause needs to be looked at, to prevent arbitrary removals.

IX. Calendar Items

February 27, 2007 - NO MEETING

March 6, 2007

6:30 8 appeal considerations  
Mirkarimi Legislation (Ordinance §37.2{r})

X. Adjournment

President Gruber adjourned the meeting at 8:55 p.m.





NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

Tuesday, 6:30 p.m.,

March 6, 2007

25 Van Ness Avenue, #70, Lower Level

AGENDA

DOCUMENTS DEPT.

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

POLLY MARSHALL

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes

- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 722 Taylor #3

AT070029

The tenants appeal the decision certifying capital improvement costs on the grounds of financial hardship.

B. 2030 Vallejo #1001

AT070025

The tenants appeal the decision determining that the unit is not their principal place of residence, alleging that they failed to receive notice of the hearing.

C. 1330 Jones St.

AL070026

The landlord appeals the dismissal of a petition for approval of utility passthroughs as having been untimely filed.

D. 1000 Green St.

AL070027

The landlord appeals the dismissal of a petition for approval of utility passthroughs as having been untimely filed.





E. 1875 Pacific Ave.

AT060120 & -23  
(cont. from 1/9/07)

The tenant appeals the decision approving a rent increase based on comparable rents on substantive and financial hardship grounds.

F. 205 Collins #7

AL070022

The landlord appeals the decision granting claims of decreased housing services.

G. 1005 Hyde St. #31

AT070023 & -24

The tenant appeals the decision certifying capital improvement costs, alleging that the decision is in error as to the refund of rent overcharges.

H. 1661 Bush St., Apt. 5

AT070028

The tenant appeals the decision determining that a rent increase is warranted pursuant to Costa-Hawkins.

VI. Communications

VII. Director's Report

VIII. Old Business

Mirkarimi Legislation Requiring Just Cause for the Severance or Removal of Certain Housing Services

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment





### ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4603 at least 72 hours prior to the meeting. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4603 to place your specific request. Late requests will be honored if possible.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

Se pueden obtener servicios de traduccion, ampliacion de sonida, u otras formas de presentacion si se solicitan por lo menos 72 horas antes de la reunion. Llame al 252-4603 para hacer su solicitud.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. All MUNI Metro lines at Van Ness and Market Street are accessible. For other accessible MUNI lines serving this location and information about MUNI accessible services, call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

### Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

### Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.

(5/04) snstsh/Board/accmgtg



# San Francisco Rent Board

March 6, 2007

## MINUTES OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, March 6, 2007 at 6:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DOCUMENTS DEPT.

APR - 1 2007

SAN FRANCISCO  
PUBLIC LIBRARY

### I. Call to Order

President Gruber called the meeting to order at 6:35 p.m.

### II. Roll Call

Commissioners Present: Becker; Gruber; Henderson;  
Hurley; Justman; Marshall; Mosbrucker; Mosser.

Commissioners not Present: Murphy.

Staff Present: Lee; Wolf.

### III. Approval of the Minutes

MSC: To approve the Minutes of February 20, 2007.

(Becker/Hurley: 5-0)

### IV. Remarks from the Public

A. Patricia Breslin, Executive Director of the Hotel Council of San Francisco, brought to the Board's attention what she believes is a "critical issue." Ms. Breslin said that the Rent Ordinance conflicts with State law, which forbids considering a guest in a full-service hotel a "tenant."

B. Wes Tyler, the General Manager of the Chancellor Hotel, said that the definition of "tenant" in the Rent Ordinance complicates the full-service hotel situation in San Francisco. Mr. Tyler said that he has to turn away people who would like to stay more than 32 days.

C. Jim Abrams, President of the California Hotel Lodging Association, said that San Francisco's Ordinance treats guests in hotels differently than any other city, and that the innkeeper/guest relationship is a "term of art." Mr. Abrams said that a "full-service" hotel must meet 7 very specific criteria and that if the hotel is not full-service, the occupant becomes a tenant after 30 days. Mr. Abrams told the Board of a situation where a guest failed to pay but the police wouldn't evict the individual, citing the Rent Ordinance. Mr. Abrams asked that the Board take steps to clarify this situation.

D. Katrina Decker, the attorney for the tenants at 2030 Vallejo #1001 (AT070025), told the Board that the second tenant was unavailable at the time of the hearing due to being temporarily incarcerated. Ms. Decker said that she had been unable to let the Board know that until now.

### V. Consideration of Appeals

#### A. 722 Taylor #3 AT070029

The landlord's petition for certification of the costs of seismic retrofit work to 1 of 6 units was

granted. The tenants appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenants' claim of financial hardship. (Becker/Marshall: 5-0)

B. 2030 Vallejo #1001 AT070025

The landlord's petition for a determination pursuant to Rules Sections 1.21 and 6.14 and Costa-Hawkins was granted because the Administrative Law Judge (ALJ) found that the subject unit is not the tenants' principal place of residence. On appeal, the tenants claim that they failed to appear because they did not receive notice of the hearing, and attach the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a new hearing.

(Marshall/Becker: 5-0)

C. 1330 Jones St. AL070026

The landlord's petition for approval of utility passthroughs for 12 units was dismissed as having been untimely filed. On appeal, the landlord asks that the Board waive its regulation and grant an equitable remedy: rather than the petition being completely dismissed, allow the landlord to collect the passthrough for 11 months, since they were only 1 week late in filing the petition.

After discussion, it was the consensus of the Board to continue this appeal in order for staff to contact the landlord and ascertain the reason for the late filing of the petition.

D. 1000 Green St. AL070027

The landlord's petition for approval of utility passthroughs for 29 units was dismissed as having been untimely filed. On appeal, the landlord asks that the Board waive its regulation and grant an equitable remedy: rather than the petition being completely dismissed, allow the landlord to collect the passthrough for 11 months, since they were only 1 week late in filing the petition.

As in the case at 1330 Jones Street, above, this case was continued in order for the landlord to provide information as to why the petition was untimely filed.

E. 1875 Pacific Ave. AT060120 & -23

(cont. from 1/9/07)

The landlord's petition for a rent increase from \$400 to \$1,595.00 based on comparable rents was granted. The tenant, the former resident manager of the building, claims hardship as well as asserting that: her due process rights were violated because her request for extension of the open record was denied; there are factual errors in the decision; the landlord should have used comparable units in the same building as the tenant's unit; and the landlord has harassed the tenant and attempted to evict her from the unit.

After discussion at the meeting on January 9th, it was the consensus of the Board to continue consideration of this appeal in order to allow the tenant to provide evidence that she had been precluded from submitting.

MSC: To deny the tenant's substantive appeal. (Hurley/Gruber: 3-2; Becker, Marshall dissenting)

After discussion, the Board decided to continue consideration of the tenant's hardship appeal to the April 3<sup>rd</sup> meeting in order for the Commissioners to read the Vega decision and provide the landlord's attorney with an opportunity to brief the question of whether hardship is a defense to a comparables increase. Additionally, the Executive Director will contact the parties and see if a Rent Board mediator could be helpful in facilitating a settlement.



F. 205 Collins #7 AL070022

The tenant's petition alleging substantial decreases in housing services was granted and the landlord was found liable to the tenant in the amount of \$3,915.00 due to several habitability defects on the premises. The tenant's failure to repair claim was denied because no violations of state or local law were proved to exist as of the effective date of the notice of rent increase. The landlord appeals the decision, arguing that: the petition was filed in retaliation for a banked rent increase that was issued; the rent reductions granted are arbitrary and disproportionately high; and the tenant failed to meet his burden of proving the dates and amount that services were diminished, nor did he prove notice to the landlord.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

G. 1005 Hyde St. #31 AT070023 & -24

The tenant's appeals were filed approximately three weeks late because the tenant thought he could file a tenant petition to contest the overcharges, which does not have a deadline for filing.

MSC: To find good cause for the late filing of the appeal. (Becker/Marshall: 5-0)

The landlords filed two petitions for certification of capital improvement costs, which were granted. In the decisions, it is found that the landlords testified that they refunded charges for capital improvement passthroughs that were not discontinued upon expiration of the amortization period. One tenant appeals the decisions, claiming that the landlords did not reimburse these overcharges.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the issue of the tenant's proper rent; a hearing will be held only if necessary. (Becker/Marshall: 5-0)

H. 1661 Bush St., Apt. 5 AT070028

The landlord's petition requesting a determination pursuant to Rules Sections 1.21 and 6.14 and Costa-Hawkins was granted because the ALJ found that the tenant did not reside at the subject premises prior to January 1, 1996 and therefore a rent increase was warranted under Costa-Hawkins. On appeal, the tenant claims that three other tenants in the building signed statements under oath that he was a resident in the building as of 1995.

MSC: To deny the appeal. (Hurley/Gruber: 5-0)

VI. Communications

The Commissioners received the following communications:

A. A Fact Sheet regarding Senate Bill 464, introduced by Senator Kuehl, which would establish a holding period after the sale of a building before the owner could Ellis; and provide that all tenants in a building would receive 1-year eviction notices if any tenants in the building are seniors or disabled.

B. A Certificate of Training and Sunshine Declaration Form for filing with the annual Form 700 Statements of Economic Interest.

VII. Director's Report

Executive Director Wolf reminded the Commissioners that their Form 700 Statements of Economic Interest are due at the Ethics Commission by April 2nd; the Certificate of Training and Sunshine Declaration Form is due by that date as well. She also informed the Board that staff has been participating in several community outreach opportunities recently: she and Greg Miller attended the Mayor's Town Hall meeting in the Bayview; Robert Collins and Rod Wong represented the Agency at "Family Day;" Alyse Ceirante and Greg Miller distributed literature at the City's "Family Fair;" Ms. Wolf will be interviewed for the S.F. Apartment Association magazine; she, Sandy Gartzman and Greg Miller will be panelists at the S.F. Apt. Association meeting on May 21st; and Ms. Wolf will attend the Mayor's Town Hall on March 26th.

### VIII. Old Business

#### Mirkarimi Legislation Requiring Just Cause for the Severance or Removal of Certain Housing Services

The Board continued their discussion of proposed amendments to the Rules and Regulations to implement the Mirkarimi legislation, which requires a just cause reason for the landlord's severance or removal of certain housing services. After a Public Hearing at the meeting on February 20th, the Commissioners debated whether or not it was advisable to pass regulations. Commissioners Becker and Murphy agreed to speak to their respective constituencies and report back to the Board. Since there was opposition from both the landlord and tenant communities, the Board decided not to adopt any regulations at this time, and let the courts decide the issues. If the landlord and tenant commissioners can agree on proposed regulations in the future, the Board could revisit the issue. Senior Administrative Law Judge Tim Lee reminded the Commissioners that it was still necessary to amend Rules 812.20(a) to conform to the Mirkarimi legislation. Therefore, the Board passed the following motion:

MSC: To adopt the proposed amendment to Rules and Regulations Section 12.20(a) to conform the Rule to the Mirkarimi legislation (Ordinance Section 37.2{r}) by deleting subsection 12.20(a)(3). (Justman/Becker: 5-0)

Rules Section 12.20(a) now reads as follows below (deletions indicated with strikethrough):

#### (a) Unilaterally Imposed Obligations and Covenants

For purposes of an eviction under Section 37.9(a)(2) of the Ordinance, a landlord shall not endeavor to recover possession of a rental unit because of the tenant's alleged violation of an obligation or covenant of the tenancy, if such obligation or covenant was unilaterally imposed by the landlord and not agreed to by the tenant and either was not included, or is not materially the same as an obligation or covenant in the rental agreement mutually agreed to by the parties. The foregoing shall not apply to: (1) changes in obligations or covenants that are not material; (2) changes in material obligations or covenants required by law or to protect the health, safety and quiet enjoyment of the occupants of the building or adjoining properties; or ~~(3) material changes that have resulted in a substantial decrease in housing services with respect to garage, storage space, or access to common areas for which a commensurate rent reduction has been provided by the landlord; and~~ (4) rent increases or other changes in the terms of a tenancy authorized under the Rent Ordinance and Rules and Regulations.

#### IV. Remarks from the Public (cont.)

E. Tenant Sophie Resetar of 1875 Pacific (AT060120 & -23) thanked Commissioners Henderson and Marshall for their understanding of the Constitution, since she believes that her right to contract under the Constitution is "being trampled on." She told the Commissioners that a senior citizen would be forced out onto the streets, since her landlords have abused the process.

F. Landlord Alex Bush of 1875 Pacific told the Board that the ownership would like to settle, as they do not wish to put the tenant out on the street, but she refuses to talk to them.

G. Tenant Gregory Luteff of 1005 Hyde St. (AT070023 & -24) thanked the Board for accepting his appeal and verified that the other tenants in the building are not affected by the disposition of his appeal.

#### IX. New Business

Commissioner Justman and several of the other Commissioners indicated that they would like to discuss the issue raised by the Executive Director of the Hotel Council of San Francisco at the next meeting. Senior Administrative Law Judge Tim Lee will do some preliminary research into the issue of exemption for hotel accommodations under Ordinance 837.2(r)(1).

#### X. Calendar Items

March 13, 2007 - NO MEETING

March 20, 2007



5 appeal considerations

New Business: Exemption for Hotel Accommodations (Ord. B37.2(r)(1))

XI. Adjournment

President Gruber adjourned the meeting at 8:25 p.m.



# San Francisco Rent Board

March 20, 2007

## NOTICE OF THE REGULAR MEETING OF THE SAN FRANCISCO RESIDENTIAL RENT STABILIZATION & ARBITRATION BOARD,

Tuesday, 6:00 p.m.,  
March 20, 2007  
25 Van Ness Avenue, #70, Lower Level

### AGENDA

DOCUMENTS DEPT.

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

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**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

#### V. Consideration of Appeals

##### A. 1730 Kearny C-3 AT070032

The tenant appeals the decision granting a utility passthrough on the grounds of financial hardship.

##### B. 957 Mission #430 AT070031

One tenant appeals a decision granting a utility passthrough on the grounds of financial hardship

##### C. 655 Kansas AT070035

The tenant appeals the decision granting a utility passthrough on substantive grounds.

##### D. 2048 Polk St. #203 AL070030

The landlord appeals the decision partially granting claims of decreased housing services.

##### E. 1451 Valencia #3 AL070034

The landlord appeals the decision granting claims of decreased housing services and failure to repair.

#### VI. Communications

#### VII. Director's Report

#### VIII. Old Business

#### IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

#### IX. New Business

Exemption for Hotel Accommodations (Ordinance B37.2(r)(1))

X. Calendar Items

XI. Adjournment



GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

Tuesday, March 20, 2007 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

I. Call to Order

DOCUMENTS DEPT.

MAR 30 2007

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President Gruber called the meeting to order at 6:03 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;  
Justman; Mosbrucker; Mosser.  
Staff Present: Lee; Wolf.

Commissioner Marshall appeared on the record at 6:03 p.m. Commissioner  
Murphy arrived at the meeting at 6:30 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 6, 2007.  
(Gruber/Becker: 5-0)

IV. Remarks from the Public

A. Tenant Will Scoggin of 655 Kansas (AT070035) told the Commissioners  
that he does not have a car so he does not use the garage in the building. Mr.  
Scoggin therefore feels that he should not be responsible for the costs of lighting  
the garage.

V. Consideration of Appeals

A. 1730 Kearny C-3

AT070032

The tenant's appeal was filed 4 months late because the tenant did not receive a  
copy of the decision and did not know that it could be appealed on the grounds of  
financial hardship.



MSC: To find good cause for the late filing of the appeal.  
(Becker/Marshall: 5-0)

The landlord's petition for approval of a utility passthrough to 23 of 30 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 5-0)

B. 957 Mission #430

AT070031

The landlord's petition for a utility passthrough for 92 of 116 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Becker: 5-0)

C. 655 Kansas

AT070035

The landlord's petition for approval of a utility passthrough for 8 of 30 units was granted. One tenant appeals the decision on the grounds that he doesn't own a car and therefore feels that he should not be charged for the costs of lighting the garage. The tenant also believes that the landlord recovers any increased utility costs for the garage by raising the amounts he charges non-tenants for parking.

MSC: To deny the appeal. (Hurley/Gruber: 5-0)

D. 2048 Polk St. #203

AL070030

The tenant's petition alleging decreased housing services was granted in part and denied in part. The landlord was found liable to the tenant in the amount of \$845.00 due to soiled carpeting, the lack of fire sprinklers in this residential hotel, and a leaking sink pipe. The landlord appeals on the grounds that installation of the sprinklers was a very large and costly project; there was no deadline for the installation as long as the landlord was acting in conjunction with the appropriate City agencies; the tenant was not really concerned about this issue; and the landlord should not be penalized, since he eventually complied with the requirement.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Hurley dissenting)

E. 1451 Valencia #3

AL070034





The tenant's petition alleging decreased housing services was granted in part and the landlord was found liable to the tenant in the amount of \$306.65 due to an inoperative dishwasher and cracked kitchen linoleum. The tenant's failure to repair claim was also granted and a rent increase was ordered deferred. On appeal, the landlord claims that: he did not attend the hearing because he was out of town and thought that the tenant was going to withdraw the petition; a new dishwasher was installed shortly after receiving notice of the problem from the tenant and the landlord had no reason to believe it was not working correctly; new linoleum was installed shortly after receipt of notice of the problem; all repairs were made within a reasonable period of time; and the tenant now wishes to withdraw the petition, which was confirmed by staff.

MSC: To accept the appeal and remand the case to allow the tenant to withdraw the petition. (Hurley/Justman: 5-0)

#### VI. Communications

The Commissioners received the following communications:

A. A Memorandum from Senior Administrative Law Judge Tim Lee regarding the exemption for hotel accommodations contained in Ordinance §37.2(r)(1).

B. The office workload statistics for the month of February 2007.

C. The Annual Report on Eviction Notices.

D. Several articles from BeyondChron.

#### VII. Director's Report

Executive Director Wolf again reminded the Commissioners that their Statements of Economic Interest are due on April 2<sup>nd</sup>. The new training requirement under AB 1234 is a two-year requirement, and they have fulfilled it if they attended last year's ethics training put on by the Office of the City Attorney. She also went over the highlights of the office's Annual Report on Eviction Notices.

#### IV. Remarks from the Public (cont.)

B. Tenant Gary Near of 1408 California Street distributed a packet of materials to the Commissioners. He said that Ms. Perrin of unit number 306 didn't receive a copy of the petition until 2-1/2 months after it was filed. Mr. Near alleges that the petition was fraudulent and incomplete, that the landlord's representative did not have authorization and that the petition should have been



dismissed. Mr. Near believes that the landlord committed mail fraud. Mr. Near also told the Board that the one of the Senior Administrative Law Judges contacted the landlord in order to get the problems corrected. He asked the Board to exercise their administrative authority and dismiss the petitions. He wanted the record to reflect that the Commissioners had no questions for him.

VIII. New Business

Exemption for Hotel Accommodations (Ordinance §37.2(r)(1))

At the meeting on March 6<sup>th</sup>, the Executive Director of the Hotel Council and two colleagues approached the Board with their concern that the definition of a "tenant" in the Rent Ordinance conflicts with State law, which forbids considering a guest in a full-service hotel a "tenant." The Commissioners asked staff to research this issue, and Senior Administrative Law Judge Tim Lee prepared a Memorandum. In his Memo, Mr. Lee suggested that any amendment to §37.2(r) must be made by the Board of Supervisors, that state law determines whether or not a court action is required to evict a hotel occupant, and that it is unlikely that an amendment to the Rent Ordinance would effect how the San Francisco Police Department responds to disputes between hotel guests and innkeepers. Commissioner Mosser suggested that the solution is to not let guests stay more than thirty days in a room in a tourist hotel. The Board took no action on this item.

IX. Calendar Items

March 27, 2007 - NO MEETING

April 3, 2007

8 appeal considerations (1 cont. from 1/23/07; 1 cont. from 3/6/07)

New Business: Rent Board Determinations of Protected Status

X. Adjournment

President Gruber adjourned the meeting at 7:05 p.m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
April 3, 2007  
25 Van Ness Avenue, #70, Lower Level

**AGENDA**

DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

A. 1875 Pacific Ave.

AT060123  
(cont. from 3/6/07)

The tenant appeals the decision granting a comparables rent increase on the grounds of financial hardship.

B. 1554 Howard #215

AT070036

The tenant appeals the denial of his petition alleging decreased housing services.

C. 3134 - 24<sup>th</sup> St.

AL070043

The Master Tenant appeals a decision granting a claim of decreased housing services.

D. 550 Battery #1418

AT070041

The tenant appeals the decision granting a utility passthrough.



E. 2947 Steiner St.

AL060114 & -15  
(cont. from 1/23/07)

The landlord appeals two decisions finding that a rent increase was not authorized by Rules §6.14 or Costa-Hawkins and determining liability for rent overpayments

F. 827 Corbett Ave. #103

AL070040

The landlord appeals the decision granting a claim of decreased housing services due to the landlord's failure to investigate the source of foul odors in the unit.

G. 4103 California

AT070042

The tenants appeal the decision denying a claim of unlawful rent increase.

H. 41 Mars St.

AT070039

The tenant appeals the decision determining that he is not disabled pursuant to Ordinance §37.9(i) and is therefore not a "protected" tenant.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

Rent Board Determinations of Protected Status in Owner/Relative Move-in Evictions under Ordinance §37.9(i)

X. Calendar Items

XI. Adjournment







## **ACCESSIBLE MEETING POLICY**

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4603 at least 72 hours prior to the meeting. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4603 to place your specific request. Late requests will be honored if possible.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

Se pueden obtener servicios de traduccion, ampliacion de sonida, u otras formas de pesentacion si se solicitan por lo menos 72 horas antes de la reunion. Llame al 252-4603 para hacer su solicitud.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. All MUNI Metro lines at Van Ness and Market Street are accessible. For other accessible MUNI lines serving this location and information about MUNI accessible services, call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

## **Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement**

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

## **Know Your Rights Under the Sunshine Ordinance**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.





DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, April 3, 2007 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

DOCUMENTS DEPT.

APR 23 2007

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I. Call to Order

President Gruber called the meeting to order at 6:10 p.m.

Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;  
Justman; Mosbrucker; Mosser.  
Commissioners not Present: Marshall; Murphy.  
Staff Present: Lee; Wolf.

Commissioner Mosser went off the record at 8:40 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of March 20, 2007.  
(Mosbrucker/Hurley: 5-0)

IV. Remarks from the Public

A. Tenant Gary Near of 1408 California Street requested that the Minutes of the March 20, 2007 Board meeting be corrected as follows: 1) the Minutes should reflect that Mr. Near's comments concerned pending utility passthrough petitions; 2) the Minutes should reflect that Mr. Near asked to speak for twelve minutes on behalf of other tenants who were not present, which request was denied by President Gruber – he was, however, granted an additional three minutes for a tenant who was at the meeting; 3) Mr. Near's accusation of wrongdoing was directed at Senior Administrative Law Judge Sandra Gartzman, and not Senior Administrative Law Judge Tim Lee; and 4) and the amounts requested by the landlord in their utility passthrough petitions are substantial. There were no comments from the Commissioners. Mr. Near again asked the Board to exercise its administrative authority to dismiss the petitions.



B. Tenant Albert Morales of 827 Corbett Ave. (AL070040) told the Board that he no longer resides in the subject unit; he moved back to the unit he originally occupied on March 31, 2007.

C. Tenant Matthew Pruitt of 1554 Howard (AT070036) said that he lived in his unit without being able to deadbolt his door; that the building manager was drunk and wound up on the pavement; and that his cat is a service animal.

D. Yosef Peretz, representing the tenant at 41 Mars Street (AT070039), suggested that the Board discuss the tenant's appeal only after resolving whether the Rent Board should issue disability determinations absent an endeavor to recover possession, which is calendared under "New Business." Mr. Peretz said he concurred with Senior Staff's recommendation that determinations of protected status should only be issued in the context of an eviction. Mr. Peretz also said that the value of services provided by the tenant's domestic partner needs to be factored in to meet the S.S.I. definition of disability.

E. Tenant Edson Jair Retureta Baez of 3134 – 24<sup>th</sup> Street (AL070043) informed the Commissioners that he still is without the housing services for which he was granted rent reductions.

F. Landlord A. Groswird of 41 Mars explained that he is merely trying to sell the family home in order to settle the estate. Mr. Groswird just wishes for the matter to be settled.

G. Tenant Sophie Resetar of 1875 Pacific (AT060123) told the Board that she has been told that she will lose her appeal. Ms. Resetar said that the landlord's statement that she would not participate in mediation is untrue – she was sick, but took part in the mediation by telephone.

V. Consideration of Appeals

A. 1875 Pacific Ave.

AT060123

(cont. from 3/6/07)

The landlord's petition for a rent increase based on comparable rents was granted. At the Board meeting on March 6, 2007, the tenant's appeal of the decision on substantive grounds was denied. However, her appeal of the decision on the grounds of financial hardship was continued in order for staff to contact the parties and offer the services of the agency in hopes of obtaining a mediated agreement.

MSC: To deny the tenant's hardship appeal. (Hurley/Gruber: 4-1;  
Becker dissenting)



B. 1554 Howard #215

AT070036

The tenant's petition alleging decreased housing services was denied. One of the tenant's claims is that the landlord has not allowed him to keep his cat on the premises. Since the landlord has taken no action to force the tenant to remove the cat, the claim was denied. The tenant appeals, claiming that the cat is a service animal.

MSC: To deny the appeal. (Hurley/Gruber: 5-0)

C. 3134 – 24<sup>th</sup> St.

AL070043

The tenant's petition alleging decreased housing services was granted and the Master Tenant was found liable to the tenant in the amount of \$3,120.00. The Master Tenant appeals, claiming that: at the time the decision was issued, the problems in the unit had been remedied; the back windows are fixed, and cannot be opened; the hot water valve was manipulated by other tenants in the building; he failed to attend the hearing because he was ill on that day; and the decision presents him with a financial hardship.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the Master Tenant's claim of financial hardship only. (Mosbrucker/Becker: 5-0)

D. 550 Battery #1418

AT070041

The tenant's appeal was filed one day late because the tenant thought it was sufficient to have mailed the appeal within the 15-day deadline.

MSC: To find good cause for the late filing of the appeal.  
(Mosbrucker/Becker: 5-0)

The landlord's petition for approval of a utility passthrough for 15 of 794 units was granted. One tenant appeals on the grounds that: 1994 is an improper base year as the tenant did not have a passthrough in effect on November 1, 2004; §6.16(n) is unconstitutional; and the landlord's increased utility costs are covered by the allowable annual rent increase.

MSC: To deny the appeal. (Mosbrucker/Becker: 5-0)

E. 2947 Steiner

AL060114 & -15  
(cont. from 1/23/07)





The landlord filed a petition seeking a determination as to whether a rent increase from \$639.42 to \$2,850.00 was authorized by Rules §6.14 and Costa-Hawkins. The Administrative Law Judge (ALJ) found that the landlord was not entitled to an unlimited rent increase because the tenant was not a subtenant or assignee and a 6.14 notice was not timely served. The tenant also filed a petition alleging unlawful rent increases, failure to repair and requesting a determination as to the proper base rent. The failure to repair claim was denied as being moot, the lawful rent was determined to be \$639.42 and the landlord was found liable to the tenant for any sums paid in excess of that amount since February 1, 2006. The landlord appealed both decisions, asserting that: the ALJ's findings are not supported by substantial evidence; the landlord did not waive their right to a Costa-Hawkins rent increase by accepting rent at the lower amount for a short period of time; the landlord never entered into a landlord-tenant relationship with the tenant; the landlord did not rescind the rent increase to \$2,850.00 but, rather, affirmatively took steps to effectuate such increase; the 6.14 notice was served within a reasonable amount of time and, to the extent that §6.14 conflicts with Costa-Hawkins, the regulation is void; only the legislature can create the timeliness presumption contained in Rules §6.14; and the decision is unfair and works a hardship on the landlord.

After discussion at their meeting on January 23<sup>rd</sup>, the Board remanded the case to the ALJ to make additional findings on two issues. Prior to this evening's meeting the Board was informed that the parties had reached a settlement agreement and the appeal was therefore withdrawn.

F. 827 Corbett Ave. #103

AL070040

The tenant's petition alleging decreased housing services was granted only as to the landlord's failure to take reasonable steps to investigate the sources of alleged foul odors in the tenant's unit. On appeal, the landlord maintains that: there has been no reduction in services, since the alleged problems existed from the time the tenant moved in to the unit; the Golden Gateway case should bar the tenant from recovering on this claim; the landlord has reasonably accommodated the tenant; the alleged problem has not been proved to exist; the tenant contributes to the problem by failing to ventilate his unit; and the requirement that the landlord give 60-day notice to restore the rent reduction constitutes a windfall to the tenant.

MSC: To deny the appeal except to terminate the rent reduction as of March 31, 2007. (Becker/Mosbrucker: 5-0)

G. 4103 California

AT070042



The tenants' petition alleging an unlawful rent increase was denied. The ALJ found that the increase was warranted under Costa-Hawkins because the original occupants of the unit had died and the tenants are lawful subtenants who moved in to the unit after January 1, 1996. On appeal, the tenants claim that: the ALJ ignored sworn testimony that one of the tenants lived in the unit in 1995; there was documentary evidence that the tenant opened a bank account using the subject unit's address in 1995; and the ALJ placed too much emphasis on dates given by the tenant in the petition and a 1997 Rental Unit Questionnaire.

MSC: To deny the appeal. (Hurley/Gruber: 4-1; Mosbrucker dissenting)

#### VI. New Business

##### Rent Board Determinations of Protected Status in Owner/Relative Move-in Evictions under Ordinance §37.9(i)

The Commissioners discussed a Memorandum from Senior Staff recommending that landlord's requests for a Rent Board determination of a tenant's claim of protected status be limited to those who are seeking to recover possession of a rental unit under Ordinance §37.9(a)(8), and the applicability of the recent decision in the case of Delaura v. Beckett. Commissioner Mosser expressed his concern that the Board could be deluged by speculative requests. Commissioner Mosbrucker opined that this is a complicated area of law and that the Delaura court misunderstood the issue. The Board therefore voted as follows:

MSC: That the Rent Board shall not hold hearings on tenants' claims of protected status unless a landlord seeks to recover possession of a rental unit by utilizing the grounds enumerated in Ordinance §37.9(a)(8). (Mosbrucker/Becker: 5-0)

Such Rent Board determinations are therefore available only if the landlord wants to recover possession of the tenant's unit for owner-occupancy and the tenant claims protected status. Determinations are not available at the Rent Board either for owners who wish to sell the property or for owners who want to recover possession of a tenant's unit based on an Ellis eviction.

#### V. Consideration of Appeals (cont.)

H. 41 Mars St.

AT070039

The landlord filed a petition seeking a determination of the tenant's protected status under Ordinance §37.9(i). The Administrative Law Judge (ALJ) found that the tenant was not disabled under the applicable Social Security guidelines



because he was able to engage in substantial gainful activity at the time of the hearing. On appeal, the tenant claims that: the Rent Board has the discretion to determine disability by some other method than qualification under the SSI/SSP guidelines and should construe the criteria in the light most favorable to tenants facing eviction; the ALJ erred in considering the tenant's financial circumstances in determining his disability status; the tenant suffers from financial hardship; the tenant meets the criteria for disability under the SSI/SSP programs; the fact that the tenant materially participated in the operation of his business does not mean that he engaged in substantial gainful activity within the meaning of that term; the value of the hours put in by the tenant's domestic partner should be deducted when determining the tenant's monthly income; the tenant does not need to liquidate assets in order to be eligible for SSI/SSP; and the tenant is "presumptively disabled" under the Social Security criteria.

MSF: To remand the case to the Administrative Law Judge to dismiss the petition for lack of jurisdiction. (Mosbrucker/Becker: 2-3; Gruber, Hurley, Justman dissenting)

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a supplemental hearing to consider the new evidence and make additional findings that are appropriate to the case. This is being done for reasons of equity to the parties and because the petition was heard before the Board's policy of not issuing disability determinations where there is no endeavor to recover possession was adopted and constitutes a one-time exception to that policy. (Mosbrucker/Justman: 5-0)

#### IV. Remarks from the Public (cont.)

H. Attorney James Kraus expressed his opinion that the Delaure decision is the "law of the land," until overturned. Mr. Kraus said that, if the Rent Board doesn't hear protected status determinations, tenants will be in court on declaratory relief actions and that the controversy won't end, it will just move to a different forum.

I. Attorney Dennis Hyde, representing the landlord in the Mars Street case, also believes that the Delaure decision applies. Mr. Hyde said that the purpose of having the Rent Board determine protected status was to protect landlords from exposure to wrongful eviction claims, and refusing to hear them absent an eviction action flies in the face of that.

J. Attorney Yosef Peretz speculated that protected status determinations could also be requested for Ellis cases, and asked why an owner move-in situation should be different. Mr. Peretz believes that a landlord isn't entitled to



an advisory opinion from the Board. Mr. Peretz also feels it is unfair for a tenant to be forced to disclose private information when the tenant didn't bring the case.

VII. Communications

In addition to correspondence concerning cases on the calendar, the Board received the following communications:

A. A Daily Journal article regarding various proposals to curb eminent domain.

B. An article from the Examiner regarding a proposed surcharge for the right to have new pets in a unit.

VIII. Director's Report

Executive Director Wolf informed the Board that the office has leased a new copying machine that has a scanner. The Commissioners indicated that they wished to continue receiving meeting materials as they have been: all documents will be mailed, but documents produced by staff will also be e-mailed.

IX. Calendar Items

April 10<sup>th</sup> & 17<sup>th</sup>, 2007 - NO MEETINGS

April 24, 2007

9 appeal considerations

X. Adjournment

President Gruber adjourned the meeting at 8:45 p.m.







**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
April 24, 2007

25 Van Ness Avenue, #70, Lower Level

**AGENDA**

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

POLLY MARSHALL

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

A. 1925 Fillmore St. #A

AL070061

The landlords appeal the decision granting rent reductions due to decreased housing services.

B. 81 Ottawa St.

AL070044

The landlords appeal the decision granting a claim of unlawful rent increase.

C. 1330 Jones St.

AL070026

(cont. from 3/6/07)

The landlord appeals the dismissal of a petition for approval of utility passthroughs due to untimely filing.

D. 1000 Green St.

AL070027

(cont. from 3/6/07)

The landlord appeals the dismissal of a petition for approval of utility passthroughs due to untimely filing.

9:35 a.m. msf  
DOCUMENTS DEPT.

APR 23 2007

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NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.



E. 786 Geary St. #202-03, 302-04, 401-04 AT070052 thru -60

The tenants in nine units appeal the decisions granting utility passthroughs.

F. 1360 Green #1 AT070051

The tenant appeals the dismissal of her petition alleging decreased housing services due to her failure to appear at the hearing.

G. 1516 Larkin #8 & 12 AT070046-48

The tenants appeal the dismissal of their petition alleging unlawful rent increases due to their failure to appear at the hearing.

H. 1554 Howard #205 AT070045

The tenant appeals the dismissal of her petition alleging decreased housing services due to her failure to appear at the hearing.

I. 1701 North Point St. #202 & 302 AT070049 & -50

Two tenants appeal the decision granting rent increases based on increased operating expenses on the grounds of financial hardship.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

X. Calendar Items

XI. Adjournment





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DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, April 24, 2007 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY II.

**I. Call to Order**

President Gruber called the meeting to order at 6:10 p.m.

**Roll Call**

Commissioners Present: Becker; Gruber; Henderson; Hurley;  
Marshall; Mosbrucker; Mosser.  
Commissioners not Present: Justman.  
Staff Present: Lee; Wolf.

Commissioner Murphy appeared on the record at 6:30 p.m.

**III. Approval of the Minutes**

MSC: To approve the Minutes of April 3, 2007.  
(Hurley/Marshall: 4-0)

**IV. Remarks from the Public**

A. Tenant Arnold Hornhauser of 786 Geary (AT070059) told the Board that the information the landlord provided regarding the commercial unit in the building is false, and the tenants are concerned that they will have to pay for utilities for the commercial space. Additionally, the tenants submitted objections to the petition which were not considered by the Administrative Law Judge (ALJ).

B. Tenant Melinda Hornhauser of 786 Geary (AT070060) said that the Decision stated that no tenant objections were received, despite the fact that many were submitted. Ms. Hornhauser also pointed out that the landlord admits that the commercial unit in the building is on a mixed-use gas meter and should be assigned a share of the costs. Ms. Hornhauser does not believe that the landlord owned the building during all "relevant" periods since they didn't pay the

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utility bills that the passthrough is based on. Ms. Hornhauser is concerned because this will form the basis for all future passthroughs.

C. Tenant Gary Near of 1408 California expressed his opinion that utility passthroughs are the "biggest rip-off in 25 years," a "disgrace" and a "shell game." He asked whether the Director had provided the Board with a copy of a lengthy document he had submitted, distributed copies to some of the Commissioners and exhorted them to read it because of the criminal proceedings going on regarding Citi Apartments. He told the Board that multiple utility passthrough petitions were filed on the last day of December, 2006. He asked why Board meetings were not tape recorded and asked the Commissioners to take official action and provide a rostrum for the public.

D. Tenant William Bayma of 1701 North Point (AT070050) told the Board that he did not receive a copy of the landlord's opposition to the hardship appeal of another tenant in the building and inquired as to whether the Board had received documents he submitted in support of his appeal.

E. Another tenant from 786 Geary remarked on the failure of the landlord to include the building's commercial space in the calculations and asked that the Board check to see that it's correct.

F. Tenant Michael Yu of 786 Geary told the Board that the tenants in the building pay for their own gas and electricity.

V. Consideration of Appeals

A. 1925 Fillmore St. #A

AL070061

The tenant's petition alleging decreased housing services was granted, in part, and the landlords were found liable to the tenant in the amount of \$674.60 due to habitability problems in the unit. On appeal, the landlords maintain that: some of the items were repaired prior to issuance of the decision; mosquito infestation would not be present during the winter months; and it is difficult to schedule repairs because the tenant insists on being present in the unit.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing to determine the appropriate termination date for the rent reductions; upon issuance, the remand decision may be appealed in its entirety by either party. (Marshall/Becker: 4-0)

B. 81 Ottawa St.

AL070044



The landlord's appeal was filed one week late because the landlord was out of the country at the time the decision was mailed and her mother was in the hospital upon her return.

MSC: To find good cause for the late filing of the appeal.  
(Becker/Marshall: 4-0)

The tenant's petition alleging an unlawful increase in rent was granted and the landlord was found liable to the tenant in the amount of \$6,669.88 due to rent overpayments. On appeal, the landlord claims that: the Administrative Law Judge (ALJ) erred in finding the tenant's testimony credible; the change in terms from \$1100 to \$1300 was not a rent increase but, rather, a restoration of the originally agreed-upon base rent amount as evidenced by the tenant's having paid it; the rent was temporarily lowered by \$200 in order to give the tenant time to find a roommate; there are factual errors in the decision; and the landlord's sister was just assisting her and not knowledgeable about all the facts in the case.

MSC: To deny the appeal. (Becker/Marshall: 4-0)

C. 1330 Jones St.

AL070026  
(cont. from 3/6/07)

The landlord's petition for approval of utility passthroughs for 12 units was dismissed as having been untimely filed. On appeal, the landlord asks that the Board waive its regulation and grant an equitable remedy: rather than the petition being completely dismissed, allow the landlord to collect the passthrough for 11 months, since they were only 1 week late in filing the petition. After discussion at the meeting on March 6<sup>th</sup>, it was the consensus of the Board to continue this appeal in order for staff to contact the landlord and ascertain the reason for the late filing of the petition.

MSC: Because of the relative newness of the utility passthrough procedures, to accept the appeal and remand the case to the Administrative Law Judge to determine whether passthroughs are warranted and, if so, any amounts granted shall be limited to a nine-month period. (Gruber/Murphy: 4-0)

D. 1000 Green St.

AL070027  
(cont. from 3/6/07)

The landlord's petition for approval of utility passthroughs for 29 units was dismissed as having been untimely filed. On appeal, the landlord asks that the Board waive its regulation and grant an equitable remedy: rather than the



petition being completely dismissed, allow the landlord to collect the passthrough for 11 months, since they were only 1 week late in filing the petition. As in the case at 1330 Jones Street, above, this case was continued from the March 6<sup>th</sup> meeting in order for the landlord to provide information as to why the petition was untimely filed.

MSC: Because of the relative newness of the utility passthrough procedures, to accept the appeal and remand the case to the Administrative Law Judge to determine whether passthroughs are warranted and, if so, any amounts granted shall be limited to a nine-month period. (Gruber/Murphy: 4-0)

E. 786 Geary St. #202, 203, 302-04, 401-04 AT070052 thru -60

The landlord filed three petitions for approval of utility passthroughs, which were granted without a hearing. The tenants in nine units appeal on the grounds that: the decisions are in error in stating that they failed to file objections to the passthroughs; there is commercial space in the building, contrary to the findings in the decisions; and the residential tenants may be paying for utilities consumed by the commercial space tenant.

MSC: To accept the appeals and remand the cases to the Administrative Law Judge for a hearing. (Marshall/Becker: 4-0)

F. 1360 Green #1 AT070051

The tenant's petition alleging decreased housing services was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant provides documentation showing that she was out of state at the time of the hearing and also furnishes a Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a hearing; should the tenant again fail to appear, absent extraordinary circumstances, no further hearings will be granted. (Murphy/Becker: 4-0)

G. 1516 Larkin #8 & 12 AT070046-48

The tenants' petitions alleging unlawful rent increases were dismissed due to their failure to appear at the properly noticed hearing. On appeal, the tenants, who cannot read English, state that they thought they could appear at any time between the scheduled hearing time of 9:00-11:00 a.m.



MSC: To accept the appeals and remand the cases for a hearing.  
(Becker/Murphy: 4-0)

H. 1554 Howard #205

AT070045

The tenant's petition alleging decreased housing services was dismissed due to her failure to appear at the properly noticed hearing. On appeal, the tenant claims to have been ill on the day of the hearing and says that she phoned the landlord and told them not to attend.

MSC: To accept the appeal and remand the case for a hearing; should the tenant again fail to appear, absent extraordinary circumstances, no further hearings will be granted.  
(Becker/Murphy: 4-0)

I. 1701 North Point St. #202 & 302

AT070049 & -50

The landlords' petition for rent increases based on increased operating expenses to 15 of 18 units was granted. Two tenants appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal of the tenant in unit #302 and remand the case for a hearing on the tenant's claim of financial hardship.  
(Becker/Marshall: 4-0)

MSC: To deny the appeal of the tenant in unit #202.  
(Murphy/Gruber: 4-0)

#### VI. Communications

The Commissioners received the following communications:

- A. Several articles from BeyondChron.
- B. A new roster of Rent Board Commissioners.
- C. The office workload statistics for the month of March.

#### VII. Director's Report

Executive Director Wolf went over the methodology by which Senior Administrative Law Judge Gartzman calculates the interest rate on security deposits, pursuant to the Board's request.





IV. Remarks from the Public (cont.)

G. Elita Suarez, the landlord at 81 Ottawa St. (AL070044), told the Board that she and the tenant used to be friends, and the landlord trusted her. She said that she had a letter confirming that the rent was \$1300 but didn't put this figure on the lease. Ms. Suarez told the Board that she is a single mother and if the tenant is only going to pay \$1100 for rent, she won't be able to afford to keep the house. Ms. Suarez asked that the Board consider all these factors and said that she has heard that San Francisco is always on the side of the tenant, but she doesn't want to believe that's true.

VIII. Calendar Items

May 1, 2007 - NO MEETING

May 8, 2007

**6:30** 5 appeal considerations

IX. Adjournment

President Gruber adjourned the meeting at 7:15 p.m.





DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

Tuesday, 6:30 p.m.,  
May 8, 2007  
25 Van Ness Avenue, #70, Lower Level

AGENDA

DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order  
II. Roll Call  
III. Approval of the Minutes  
IV. Remarks from the Public

11:35 a.m. msf  
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NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 653 Capp St. AT070062

The tenant appeals the dismissal of a petition alleging decreased housing services due to the tenant's failure to appear at the hearing.

B. 1616 Taylor St. #7 AT070066

The tenant appeals the decision approving a utility passthrough on the grounds of financial hardship.

C. 4351 - 18<sup>th</sup> St. AT070067

The tenant appeals the dismissal of a petition alleging decreased housing services due to the tenant's failure to appear at the hearing.

D. 1148-1/2 Washington St. AT070063

The tenant appeals the determination that a rent increase is warranted pursuant to Costa-Hawkins.



E. 2699 Bryant St.

AT070064 & -65

The tenant appeals the determination that the unit is not the tenant's principal place of residence pursuant to Rules §1.21.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

X. Calendar Items

XI. Adjournment





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**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

Tuesday, May 8, 2007 at 6:30 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

President Gruber called the meeting to order at 6:40 p.m.

Roll Call

Commissioners Present: Becker; Gruber; Henderson; Justman;  
Marshall; Mosbrucker; Murphy.  
Commissioners not Present: Hurley; Mosser.  
Staff Present: Lee; Wolf.

III. Approval of the Minutes

MSC: To approve the Minutes of April 24, 2007.  
(Becker/Murphy: 4-0; Justman abstaining)

IV. Remarks from the Public

Tenant Gary Near of 1408 California spoke on behalf of himself and asked for another three minutes on behalf of tenant Terry Perrin, who was not present; President Gruber denied this request. He asked for the Minutes of April 24<sup>th</sup> to be corrected as follows: the context of his remarks regarding his landlord, Citi Apartments, is a criminal investigation; the "rip-off" he referred to is utility passthrough petitions, and not the Rent Board; the letter he submitted was not listed as an official communication; and he asked that the Board tape record its meetings and provide a rostrum for the public. Mr. Near also alleged that the "official wrongdoing" he accused Senior Administrative Law Judge Sandy Gartzman of hasn't stopped, as Judge Jeffrey Eckber had an ex parte communication with a party to a Rent Board proceeding. He asked that the Board conduct an official investigation and that a letter regarding this that he submitted be made a part of the official record. There were no comments from any of the Commissioners.

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V. Consideration of Appeals

A. 653 Capp St.

AT070062

The tenant's petition alleging decreased housing services was dismissed due to the tenant's failure to appear at the properly noticed hearing. On appeal, the tenant claims not to have received the Notice of Hearing and provides the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing;  
should the tenant again fail to appear, absent extraordinary  
circumstances, no further hearings will be granted.  
(Becker/Marshall: 5-0)

B. 1616 Taylor St. #7

AT070066

The landlord's petition seeking approval of utility passthroughs for 4 of 11 units was granted, resulting in a monthly passthrough in the amount of \$49.20. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the  
tenant's claim of financial hardship. (Becker/Murphy: 5-0)

C. 4351 – 18<sup>th</sup> St.

AT070067

The tenant's petition alleging decreased housing services was dismissed due to the tenant's failure to appear at the properly noticed hearing. On appeal, the tenant claims not to have received the Notice of Hearing and provides the requisite Declaration of Non-Receipt of Notice of Hearing.

MSC: To accept the appeal and remand the case for a new hearing.  
(Becker/Marshall: 5-0)

D. 1148-1/2 Washington St.

AT070063

The landlord's petition seeking a determination pursuant to Costa-Hawkins and Rules §6.14 was granted as the Administrative Law Judge found that the original tenant no longer resided in the unit and the tenant is a subtenant who commenced occupancy after January 1, 1996. On appeal, the tenant claims that he should be considered an original tenant since the landlord accepted rent checks from him since 2005.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)



E. 2699 Bryant St.

AT070064 & -65

The landlords' petition seeking a determination pursuant to Rules §1.21 was granted because the Administrative Law Judge found that the subject unit is not the tenant's principal place of residence. On appeal, the tenant claims that: the objective evidence does not support the decision; the tenant is an active senior citizen who travels and spends time at the homes of her adult children; the landlords' evidence is inaccurate and unreliable; the documentary evidence shows that the tenant resides at the subject unit; and the decision presents the tenant with a financial hardship.

MSC: To recuse Commissioner Becker from consideration of these appeals. (Becker/Murphy: 5-0)

MSC: To deny the appeals. (Murphy/Gruber: 4-1; Henderson dissenting)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. Articles from BeyondChron and the S.F. Examiner.

B. A Pending Litigation Status Report from Senior Administrative Law Judge Tim Lee.

#### VII. Director's Report

Executive Director Wolf informed the Board that the SRO Hotel Visitor Policy was last amended as of July 11, 2006. Ms. Wolf will re-convene the committee of interested parties from last year and forward their recommendations to the Commissioners for their consideration this year.

#### VIII. Calendar Items

May 15, 2007 - NO MEETING

May 22, 2007

8 appeal considerations

#### XI. Adjournment

President Gruber adjourned the meeting at 7:20 p.m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
May 22, 2007

25 Van Ness Avenue, #70, Lower Level

**AGENDA**

DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

4:10 p.m. msf  
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A. 3600 – 20<sup>th</sup> St. #105 AT070104

One tenant appeals the decision approving utility passthroughs on the grounds of financial hardship.

B. 309 Linden St. AT070107

One tenant appeals the decision approving capital improvement passthroughs on the grounds of financial hardship.

C. 795 Geary, Apt. 604 AT070102

One tenant appeals the decision approving utility passthroughs on the grounds of financial hardship.

D. 555 Florida #316 AT070068

The tenant appeals the decision denying his claim of unlawful rent increases, finding that the tenant's unit is newly constructed and not subject to Rent Board jurisdiction.





E. 872 Sutter #24

AT070099

The tenant appeals the decision determining that a rent increase is warranted pursuant to Rules §1.21 and Costa-Hawkins.

F. 872 Sutter #24

AT070100

The tenant appeals the decision granting a rent increase pursuant to Rules §1.21 and Costa-Hawkins on the grounds of financial hardship.

G. 1192 Treat Ave.

AL070101

The landlord appeals the decision granting rent reductions due to decreased housing services.

H. 110 – 6<sup>th</sup> Ave. #3

AL070103

The Master Tenant appeals the decision refunding rent overpayments pursuant to Rules §6.15C(3).

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

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IX. New Business

X. Calendar Items

XI. Adjournment





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LARRY BEACH BECKER  
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MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

Tuesday, May 22, 2007 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY||.

I. Call to Order

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President Gruber called the meeting to order at 6:05 p.m.

JUN - 1 2007

Roll Call

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Commissioners Present: Becker; Gruber; Henderson; Hurley;  
Mosbrucker; Mosser.  
Commissioners not Present: Justman; Marshall.  
Staff Present: Lee; Wolf.

Commissioner Murphy appeared on the record at 6:35 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 8, 2007.  
(Becker/Hurley: 4-0)

IV. Remarks from the Public

A. Dave Crow, attorney for the tenant at 555 Florida (AT070068), told the Board that the Administrative Law Judge erred in finding that the unit was newly constructed and therefore exempt under Costa-Hawkins. Mr. Crow said that the units could not have been newly constructed, since the building's walls and foundation were built in 1923. Mr. Crow believes that exemptions must be narrowly construed and the facts in this case show that a temporary certificate of occupancy was issued by the Fire Department. Since Rules §1.17(g) requires that the Department of Building Inspection issue the certificate, "strict construction" requires reversal of the decision.

B. Tenant William Stone of 872 Sutter (AT070099) told the Board that the landlord had been a close friend, but fairness demands granting his appeal. Mr. Stone said that the landlord had tacitly allowed him to sub-let so that he could



meet familial financial obligations. Mr. Stone alleged that the landlord has breached their agreement that he had six months to take his apartment back. Mr. Stone averred that he has never vacated the unit as his primary residence and that Costa-Hawkins is fundamentally flawed because it does not require landlords to give notice prior to issuing a notice of rent increase.

C. Attorney Steven Mac Donald said that he is a friend of tenant William Stone's, and knows where he lives. Mr. Mac Donald believes that the decision is flawed because the landlord did not meet the burden of proof.

D. Gloria Sullivan spoke in support of William Stone's appeal. She has known Mr. Stone since 2002 and knows the subject unit as his primary residence. Ms. Sullivan believes that the landlord is complicit, because she is a witness to their 6-month agreement and allowance of subletting.

V. Consideration of Appeals

A. 3600 – 20<sup>th</sup> St. #105

AT070104

The landlord's petition for approval of utility passthroughs for 37 of 48 units was granted. One tenant appealed the decision on the grounds of financial hardship. Prior to the meeting, the landlord agreed to withdraw the unit from the petition due to the tenant's financial hardship. The appeal was therefore withdrawn.

B. 309 Linden St.

AT070107

The landlord's petition seeking certification of capital improvement costs for 3 of 4 units was granted, resulting in a monthly passthrough in the amount of \$44.70. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Hurley: 4-0)

C. 795 Geary, Apt. 604

AT070102

The landlord's petition for approval of utility passthroughs was granted. One tenant appealed the decision on the grounds that the landlord had not requested payment for utilities from the tenant for several months, and then asserted that the tenant was in arrears for utility charges as well as a utility passthrough. After receiving an explanation from staff as to the legal basis for utility passthroughs, the tenant withdrew the appeal prior to the meeting.

D. 555 Florida #316

AT070068





The tenant's petition alleging unlawful rent increases was denied because the Administrative Law Judge (ALJ) found that the tenant's unit is exempt from Rent Board jurisdiction as a newly constructed unit pursuant to Costa-Hawkins. On appeal, the tenant argues that: the building was constructed before 1995 and therefore the units are not newly constructed; a certificate of occupancy was not issued after February 1, 1995; there has been existing residential use and any certificate of occupancy issued in the future should not have retroactive effect; the building is also not exempt as substantial rehabilitation; the ALJ's determination should have been made pursuant to the provisions of Rules §1.17(g) and statutory procedural requirements, which should have been strictly construed; the Fire Department cannot issue temporary certificates of occupancy; the permits proffered by the landlord did not qualify for temporary certificates of occupancy; the ALJ failed to consider the effect of the expiration of the relevant permits; and no lawful conversion of the subject unit has occurred and the unit is therefore subject to the jurisdiction of the Rent Ordinance, which renders the rent increases null and void.

MSC: To recuse Commissioner Mosser from consideration of this appeal. (Becker/Hurley: 4-0)

Due to the absence of a Neutral Commissioner, consideration of this appeal was continued to a future meeting.

E. 872 Sutter #24

AT070099

The landlord's petition seeking a determination pursuant to Rules §1.21 and Costa-Hawkins was granted as the ALJ found that the subject unit was not the tenant's principal place of residence and subtenants in the unit moved in after January 1, 1996. On appeal, the tenant claims that: since he resumed residency in the subject unit as of June 8, 2006, when his sub-tenant vacated the premises, Costa-Hawkins is inapplicable; any increase in rent must be imposed on the lawful subtenant or assignee; the tenant still permanently resides in the subject unit; and the landlord is equitably estopped from raising the rent because he told the tenant he had six months to move back in to the apartment, but filed the petition for rent increase prior to the expiration of that time period.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Henderson/Mosbrucker: 4-0)

MSC: To deny the appeal. (Hurley/Gruber: 3-1; Mosbrucker dissenting)

F. 872 Sutter #24

AT070100



The landlord's petition seeking a determination pursuant to Rules §1.21 and Costa-Hawkins was granted as the ALJ found that the subject unit was not the tenant's principal place of residence and subtenants in the unit moved in after January 1, 1996. The tenant appeals the rent increase from \$645.32 to \$1,100.00 on the grounds of financial hardship.

MSC: To deny the appeal. (Mosbrucker/Hurley: 4-0)

G. 1192 Treat Ave.

AL070101

The tenants' petition alleging decreased housing services was granted and the landlord was found liable to the tenants in the amount of \$22,112.00 due to serious habitability problems in the subject unit. The landlord failed to appear at the hearing and appeals on the grounds that the Notice of Hearing was not properly served.

MSC: To deny the appeal. (Becker/Mosbrucker: 4-0)

H. 110 – 6<sup>th</sup> Ave. #3

AL070103

The Master Tenant's appeal was filed one day late because the Master Tenant believed that the postmark date would be sufficient.

MSC: To find good cause for the late filing of the appeal.  
(Becker/Mosbrucker: 4-0)

The subtenant's petition alleging that he paid a disproportionate share of the rent pursuant to Rules §6.15C(3) was granted and the Master Tenant was found liable to the subtenant in the amount of \$536.70. On appeal, the Master Tenant claims that: the size of the bedrooms in the unit was not taken into account, nor was the subtenant's right to use the living room; the subtenant tacitly agreed to the terms by signing the rental contract; and he should have no more responsibility for cleaning the unit than do his roommates.

MSC: To deny the appeal. (Hurley/Gruber: 3-1; Mosbrucker dissenting)

#### VI. Communications

The Commissioners received communications regarding cases on the calendar.

#### VII. Director's Report



Executive Director Wolf told the Commissioners that she, Senior Administrative Law Judge Sandy Gartzman and Counselor Greg Miller gave a presentation at the S.F. Apartment Association monthly meeting the previous evening.

X. Calendar Items

May 29, 2007 - NO MEETING

June 5, 2007

Parkmerced appeals – O&M II  
5 additional appeals

XI. Adjournment

President Gruber adjourned the meeting at 6:50 p.m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
June 5, 2007

25 Van Ness Avenue, #70, Lower Level

**AGENDA**

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

POLLY MARSHALL

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

A. 41 Pinto Ave.

AT070109

The tenant appeals the decision granting utility passthroughs on the grounds of financial hardship.

B. 935 Geary #211, 908, 904 & 712

AT070113 thru -16

Four tenants appeal the decision granting utility passthroughs on the grounds of financial hardship.

C. 1550 Bay St. #A409

AT070110

The tenant appeals the decision denying a claim of decreased housing services.

D. Parkmerced

AT070069 thru -98

Thirty-four tenants appeal the decision granting rent increases based on increased operating expenses; eleven on substantive grounds, and twenty-three due to financial hardship.

11:45 a.m. msf  
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Financial Hardship Claims:

1. 223 Serrano Dr.	AT070069
2. 16 Fuente Ave.	AT070070
3. 12 Fuente Ave.	AT070071
4. 231 Serrano Dr.	AT070106
5. 9 Gonzalez Dr.	AT070108
6. 145 Gonzalez Dr.	AT070076
7. 42 Cambon Dr.	AT070077
8. 226 Cardenas Ave.	AT070078
9. 55 Chumasero Dr. #6K	AT070080
10. 55 Chumasero Dr. #ME	AT070082
11. 50 Chumasero Dr. #2J	AT070083
12. 750 Gonzalez Dr. #5A	AT070085
13. 747 Gonzalez Dr.	AT070086
14. 119 Bucarelli Dr.	AT070087
15. 12 Garces Dr.	AT070088
16. 514 Arballo Dr.	AT070090
17. 546 Arballo Dr.	AT070091
18. 414 Arballo Dr.	AT070092
19. 118 Tapia Dr.	AT070093
20. 41 Pinto Ave.	AT070094
21. 344 Serrano Dr.	AT070105
22. 405 Serrano Dr. #10G	AT070096
23. 405 Serrano Dr. #12D	AT070098

Substantive Claims:

24. 7A Gonzalez Dr.	AT070072
9 Gonzalez Dr.	AT070073
3 Gonzalez Dr.	AT070074
7 Gonzalez Dr.	AT070075
25. 100 Font Blvd. #1K	AT070079
26. 55 Chumasero Dr.	AT070081
27. 329 Font Blvd.	AT070084
28. 325 Font Blvd.	AT070118
29. 128 Garces Dr.	AT070089
30. 355 Serrano Dr. #12C	AT070095
31. 405 Serrano Dr. #10G	AT070097
E. 2869 – 23 <sup>rd</sup> St.	AL070111

The landlord appeals the decision granting a claim of decreased housing services.



F. 500 Hyde St., Apt. 109

AT070112

The tenant appeals the decision partially granting a claim of decreased housing services.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)

**NOTE:** Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- IX. New Business
- X. Calendar Items
- XI. Adjournment





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Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. All MUNI Metro lines at Van Ness and Market Street are accessible. For other accessible MUNI lines serving this location and information about MUNI accessible services, call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

## Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

## Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.





DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, June 5, 2007 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

I. Call to Order

President Gruber called the meeting to order at 6:10 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;  
Marshall; Mosbrucker; Mosser.  
Staff Present: Gartzman; Wolf.

Commissioner Justman appeared on the record at 6:15 p.m.; Commissioner  
Murphy arrived at the meeting at 6:25 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of May 22, 2007.  
(Hurley/Marshall: 4-0)

IV. Remarks from the Public

A. Tenant Julian Lagos of 128 Garces at Parkmerced (AT070089) said that  
no evidence has been presented that the ownership of the Villas Parkmerced has  
transferred and Commissioner Murphy should recuse himself from consideration  
of the appeals since he sits on the Board of the S.F. Apartment Association, as  
does Bert Polacci, a principal at Parkmerced.

B. Tenant Robert Drake of 935 Geary #908 (AT070114) submitted  
additional evidence showing his indebtedness. He told the Board that the utility  
passthrough should apply to all tenants, and not just the tenants who had  
electrical upgrade work done in their unit. Mr. Drake believes that it is easier for  
the landlord to obtain approval of a utility passthrough than a capital  
improvement, because "they are not as thoroughly reviewed."

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C. A tenant at Parkmerced agreed with the allegation that Commissioner Murphy has a conflict of interest regarding this case.

D. Tenant Michael Perlas of 55 Chumasero #12G (AT070081) expressed his belief that Bert Polacci should be deemed the same landlord as the prior owner because he was an Executive Director of Olympic View Realty, is now an Executive Director of the new LLC, and there are no public records available to prove whether or not he had or has an ownership interest in these two entities. Mr. Perlas maintained that: the effective date of the rent increases should not be the day after the landlord's acquisition of the property; and the annual increase amount of 1.7% should be used for calculation of the operating expense increase because that was the amount in effect when the new landlord substituted in to the petition.

E. Tenant M. K. Venkatachari of 355 Serrano #12C (AT070095) said that the greatly increased insurance costs that formed the basis of the approved increases were not substantiated and created exaggerated results. Mr. Venkatachari feels that tenants should not be "saddled forever by rent increases granted on the basis of a temporary spike in costs."

F. Tenant Anna Marie Hewson of 344 Serrano (AT070105) told the Board that she agreed with the statements of tenant Michael Perlas above and that she was unaware of the amount of the rent increase until she received an accounting from the landlord.

G. Tenant Joyce Yarbrough of 100 Font #1K (AT070079) said that she concurs with the comments offered by the other Parkmerced tenants. Ms. Yarbrough alleged that landlord representative Bert Polacci had said that the operating and maintenance expense petition was initiated by the prior owners, and would be rejected by the current owner.

H. Attorney David Wasserman informed the Board "as an Officer of the Court" that there had never been any improper dealings between Bert Polacci and Commissioner Murphy, and that they had had no contact regarding the operating expense petition.

I. Tenant Kevin White of 500 Hyde St., Apt. 109 (AT070112) said that his lease provides that the landlord has 30 days to accomplish repairs, which turned into 5-1/2 months. Since Mr. White lives in a studio apartment, the loss of his closet space caused a "huge inconvenience," since many of his possessions had to be placed in the hallway. Mr. White said that he was seeking "a sense of justice and to better understand the process."



J. A tenant who resides at 325 Font (AT070118) maintained that Attorney David Wasserman also represents Bert Polacci, which she believes is "an incredible conflict of interest" – she expressed her opinion that this individual "has no ethics whatsoever."

V. Consideration of Appeals

A. 41 Pinto Ave.

AT070109

MSC: To recuse Commissioner Becker from consideration of this appeal. (Mosbrucker/Marshall: 5-0)

The tenant's appeal was filed five months late because the tenant did not realize that he could file an appeal on the grounds of financial hardship.

MSC: To find good cause for the late filing of the appeal.  
(Marshall/Henderson: 3-2; Gruber, Hurley dissenting)

The landlord's petition for approval of utility passthroughs for 32 of 100 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Henderson/Marshall: 5-0)

B. 935 Geary #211, 908, 904 & 712

AT070113 thru -16

The landlord's petition for approval of utility passthroughs for 19 of 114 units was granted. Four tenants appeal the decision on the grounds of financial hardship.

MSC: To accept the appeals of the tenants in unit numbers 211, 712, 904 and 908 and remand the cases for hearings on the tenants' claims of financial hardship. (Becker/Murphy: 5-0)

C. 1550 Bay St. #A409

AT070110

The tenant's appeal was filed one day late because of a delay in the post office's delivery of the mail.

MSC: To find good cause for the late filing of the appeal.  
(Becker/Marshall: 5-0)

The tenant's petition alleging decreased housing services due to noise from a rooftop ventilation fan and noisy neighbor, as well as a defective mattress set, was denied because the Administrative Law Judge found that the tenant failed to



meet her burden of proof. On appeal, the tenant claims that: the standard of proof required by the ALJ is unnecessarily high for an average person; the tenant did not complain about the noise for a period of time because the problem was temporarily remedied; the mattress was in very bad condition; and if the tenant had been given a maintenance request form, she would have filled it out.

MSC: To deny the appeal. (Hurley/Gruber: 5-0)

C. Parkmerced:

AT070069 thru -0098

The landlord's petition for rent increases based on increased operating expenses for 1,633 of 3,287 units was granted, in part. The tenants in 34 units appeal the decision, 23 alleging financial hardship and 11 on substantive grounds. Tenants filing hardship claims are as follows:

1. 223 Serrano	AT070069
2. 16 Fuente	AT070070
3. 12 Fuente	AT070071
4. 231 Serrano Dr.	AT070106
5. 9 Gonzalez	AT070108
6. 145 Gonzalez	AT070076
7. 42 Cambon	AT070077
8. 226 Cardenas	AT070078
9. 55 Chumasero #6K	AT070080
10. 55 Chumasero #ME	AT070082
11. 50 Chumasero #2J	AT070083
12. 750 Gonzalez #5A	AT070085
13. 747 Gonzalez	AT070086
14. 119 Bucareli Dr.	AT070087
15. 12 Garces	AT070088
16. 514 Arballo	AT070090
17. 546 Arballo	AT070091
18. 414 Arballo	AT070092
19. 118 Tapia Dr.	AT070093
20. 41 Pinto	AT070094
21. 344 Serrano	AT070105
22. 405 Serrano #10G	AT070096
23. 405 Serrano #12D	AT070098

The following tenants followed substantive claims, as follows:

24. 7A Gonzalez	AT070072
9 Gonzalez	AT070073
3 Gonzalez	AT070074



7 Gonzalez

AT070075

The tenants in four units appeal the decision on the grounds that: they have experienced decreased housing services, including reduced garbage pick-up, mold, lack of paint, dirty laundry rooms, and overgrown weeds; the annual increase should cover any increased expenses the landlord incurs; noise from resident college students has negatively affected the quality of life at the complex; and there was a power outage for 24 hours.

25. 100 Font #1K

AT070079

The tenant appeals on the grounds that a rent increase should only be given at the time of the tenant's lease renewal.

26. 55 Chumasero

AT070081

The tenant appeals on the grounds that: an employee of the new owners also worked for the prior owner, and therefore there is not a new landlord for purposes of the 5-year limitation on operating expense increases; the effective date of the rent increase should be the date that the new owner substituted in to the petition; and the annual allowable increase that was in effect at the time the new landlord substituted in should be used to determine the amount of the operating expense increase.

27. 329 Font

AT070084

The tenants appeal on the grounds that, since the new landlord substituted in to the petition for the prior owner, they are not a different landlord for purposes of exemption from the 5-year limitation on operating expense increases by the same owner.

28. 325 Font

AT070118

The tenant appeals on the grounds that: the petition was filed 3 years after a prior O&M petition had been filed by the prior owner, in violation of the 5-year limitation on operating expense increases by the same owner; transfer of ownership was not documented; work orders were not provided by the landlord; the landlord's new earthquake insurance policy does not benefit the tenants; there should have been no increase in garbage expenses, since garbage collection has been reduced; payroll costs should not have increased when there were fewer employees; increased office costs were not proved; the costs of debt service and property taxes actually went down; the burden of proof was inappropriately shifted to the tenants; and the petition should have been administratively dismissed.





29. 128 Garces

AT070089

The tenants appeal on the same grounds as the tenant at 325 Font, directly above.

30. 355 Serrano #12C

AT070095

The tenant appeals on the grounds that: the landlord failed to prove that the increase in insurance costs was not temporary and the comparison periods could have been chosen to produce exaggerated results; the effective date for the rent increases should be the date that the new landlord subbed in to the petition; the allowable rent increase in effect on the effective date of the rent increases should be used; and the new owner as successor to the prior owner should not be allowed to impose an O&M increase within 5 years of the prior O&M increase.

31. 405 Serrano #10-G

AT070097

The tenant appeals on the grounds that the annual increase should cover the landlord's expenses, and it should not be the tenants' responsibility to pay for the upkeep and maintenance of the property.

The Board discussed the above appeals at length and decided to continue consideration of all of the Parkmerced appeals in order to obtain the following additional information from the landlord: 1) documentation of the transfer of the property to the new owners; 2) information as to whether there was identity of interest between the prior and present owner; and 3) documentation of insurance costs for the years 2003 and 2004 to see if the costs went down subsequent to the comparison periods in the petition. Additionally, the parties were asked to brief the issue of whether the 5-year limitation on the imposition of rent increases based on increased operating expenses (Ordinance §3718(b)(1)(A)) applies to a new owner who substitutes in to a petition in place of the prior owner and uses the prior owner's expenses to justify the increases. Consideration of the substantive and hardship appeals will be continued at the July 10<sup>th</sup> Board meeting.

D. 2869 – 23<sup>rd</sup> St.

AL070111

The tenants' petition alleging decreased housing services due to window leaks was granted and the landlord was found liable to the tenants in the amount of \$2,500.00. On appeal, the landlord claims that: additional repair work that was done was not addressed in the decision; the tenants failed to prove that they gave continuing notice of the leak since 1998; repairs were made in addition to



the cosmetic work that was done; and there are errors in the decision's Findings of Fact.

MSC: To deny the appeal. (Becker/Mosbrucker: 3-2; Gruber, Hurley dissenting)

E. 500 Hyde St., Apt. 109

AT070112

The tenant's petition alleging decreased housing services was granted, in part, and the landlord was found liable to the tenant in the amount of \$131.25 for ceiling leaks in the unit. On appeal, the tenant claims that: the sum granted is insufficient to compensate him for the extent of the damage; he gave repeated notice to the landlord's property manager, who was not persistent in attempting to arrange for repairs; and he lost substantial wages on dates the property manager failed to appear for inspections.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the record to increase the amount of the rent reduction due to ceiling leaks from \$131.25 to \$400.  
(Marshall/Becker: 3-2; Murphy, Gruber dissenting)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. An Ordinance introduced by Supervisor McGoldrick which would require that landlords re-key or replace locks on all outside doors after a tenant vacates a residential rental unit.

B. An article from SF Gate regarding the adverse consequences to a landlord when tenants convert a rental unit into a marijuana "grow room."

#### VII. Director's Report

Executive Director Wolf informed the Commissioners that the departmental budget was approved by the Board of Supervisor's Budget Committee upon initial consideration on May 23<sup>rd</sup>.

#### IV. Remarks from the Public (cont.)

K. Tenant Kevin White of 500 Hyde (AT070112) told the Board that he asked for compensation in the amount of \$400, which is a "paltry amount." Mr. White said that the closet leaked again 3 weeks ago, but the landlord failed to



come and investigate. Mr. White claims that he never denied the landlord access to his unit. He believes that the landlord is not effectuating repairs because he turned down their buy-out offer.

VIII. Calendar Items

June 12, 2007 - NO MEETING

June 19, 2007

8 appeal considerations (1 cont. from 5/22/07)

XI. Adjournment

President Gruber adjourned the meeting at 8:05 p.m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
June 19, 2007  
25 Van Ness Avenue, #70, Lower Level

**AGENDA**

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

POLLY MARSHALL

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

V. Consideration of Appeals

A. 980 Bush #410

AT070150

One tenant appeals the decision granting utility passthroughs on the grounds of financial hardship.

B. 1350 Stockton St.

AT070119 thru -46

The tenants in twenty-eight units appeal the decision granting utility passthroughs on the grounds of financial hardship.

C. 81 Ottawa Ave.

AL070127

The landlord appeals the decision granting a claim of unlawful rent increase on the grounds of financial hardship and additionally claims that there are calculation errors in the decision.

D. 55 Chumasero #6K

AT070148

One tenant appeals the decision granting utility passthroughs on the grounds of financial hardship.

12:00 p.m. NSF  
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NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.





E. 1657 Market #28

AT070117

The tenant appeals the decision granting a claim of unlawful rent increase.

F. 2340 Filbert St.

AT070147

The tenant appeals the remand decision finding that a rent increase is warranted pursuant to Costa-Hawkins.

G. 759 – 14<sup>th</sup> Ave.

AL070149

The landlord appeals the decision determining that no rent increase is warranted pursuant to Rules §1.21.

F. 555 Florida St. #316

AT070068

(cont. from 5/22/07)

The tenant appeals the decision denying a claim of unlawful rent increases, finding that the tenant's unit is newly constructed and not subject to the jurisdiction of the Rent Board.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

X. Calendar Items

XI. Adjournment





## **ACCESSIBLE MEETING POLICY**

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## **Know Your Rights Under the Sunshine Ordinance**

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GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

Tuesday, June 19, 2007 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

POLLY MARSHALL

CATHY MOSBRUCKER

NEVELO MOSSER

BARTHOLOMEW MURPHY

I. Call to Order

DOCUMENTS DEPT.

President Gruber called the meeting to order at 6:10 p.m.

JUL 10 2007

II. Roll Call

SAN FRANCISCO  
PUBLIC LIBRARY

Commissioners Present: Becker; Gruber; Hurley; Mosbrucker;  
Mosser.

Commissioners not Present: Henderson; Murphy.

Staff Present: Lee; Wolf.

Commissioners Justman and Marshall appeared on the record at 6:13 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 5, 2007.  
(Mosbrucker/Hurley: 4-0)

IV. Remarks from the Public

A. Dave Crow, Attorney for the tenant in the case at 555 Florida #316 (AT070068), told the Board that the landlord did create live-work housing, but not legally and the Board must decide the case "in law and not equity." Mr. Crow said that exemptions to the Ordinance must be narrowly construed and the building was issued a temporary Certificate of Occupancy only. Mr. Crow also reminded the Board that the Fire Department does not issue Certificates of Final Completion and Occupancy, as these must be issued by the Department of Building Inspection, and there is no evidence that the landlord ever applied.

B. Richard Grabstein, Attorney for the landlord in the Florida Street case, told the Board that tenant's counsel's argument was rejected by the Administrative Law Judge (ALJ), who based the decision solely on Costa-Hawkins. Mr. Grabstein said that Rules §1.17 is inapplicable to this case, since





Costa-Hawkins only requires a certificate of occupancy, without saying what that means. Mr. Grabstein also told the Board that the building has been repeatedly inspected by the Department of Building Inspection for eight years with no violations being issued, which is tantamount to approval.

C. Andrew Zacks, Attorney for the landlord in the case at 759 – 14<sup>th</sup> Ave. (AL070149), told the Board that the ALJ's decision constitutes a "counter-productive application of Rules §1.21." Mr. Zacks contends that the tenant is an attorney who took a homeowner's exemption on his residence in Marin County and represents to the State Bar that the subject unit is his office. Mr. Zacks conceded that a Homeowner's Exemption is not always totally definitive but said that this case is unusual, and must be reversed. Mr. Zacks also asserted that the decision would drive the landlord out of the rental business as the rent is below market and the family took on significant debt for the care of the elderly owner.

D. Harvey Freed, the tenant in the case at 14th Avenue, told the Board that the ALJ made a careful factual analysis of all factors and the Findings were all in his favor, including that his testimony was credible. Mr. Freed told the Commissioners that he has lived with his family in the subject unit for many years and that the "rustic cottage" in Inverness is only used on weekends. Mr. Freed also told the Board that the Marin County Homeowner's Exemption form did not state that the unit must be one's principal place of residence, and it has been revoked.

E. Tenant David Lunn of 1657 Market #28 (AT070117) told the Board that the Decision specified that any sums paid on his behalf by Walden House should be returned to the agency. However, Mr. Lunn clarified that Walden House was merely his representative payee, and the amounts overpaid should actually be refunded to him.

F. David Fisher, the son of the 14<sup>th</sup> Avenue landlord, told the Board that he inherited the property. Mr. Fisher expressed his opinion that the intent of rent control was not to protect real estate attorneys with "million dollar homes" who have sworn that another unit is their principal place of residence.

#### V. Consideration of Appeals

A. 980 Bush #410

AT070150

The landlord's petition for approval of utility passthroughs for 22 of 73 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Becker/Marshall: 5-0)





B. 1350 Stockton St.

AT070119 thru -46

Twenty-eight tenant appeals were filed several months late because the tenants are monolingual Chinese speakers who did not realize the passthroughs were approved until they recently received notices of rent increase.

MSC: To find good cause for the late filing of the appeals.  
(Becker/Marshall: 5-0)

The landlord filed several petitions seeking approval of utility passthroughs, which were granted. The tenants in twenty-eight units appeal the decisions on the grounds of financial hardship.

MSC: To accept the appeals and remand the cases for hearings on the tenants' claims of financial hardship. (Becker/Justman: 5-0)

C. 81 Ottawa Ave.

AL070127

The landlord's hardship appeal was filed almost one month late because the landlord did not know she could appeal on this basis until after her substantive appeal was denied and because she experienced vertigo for close to a two-week period.

MSC: To find good cause for the late filing of the appeal.  
(Justman/Hurley: 5-0)

The tenant's petition alleging an unlawful rent increase was granted and the landlord was found liable to the tenant in the amount of \$9,226.60. On further appeal, the landlord claims that the decision presents her with a financial hardship and alleges that there are errors in the overpayment calculation.

MSC: To deny the appeal on substantive grounds but remand the case for a hearing on the landlord's claim of financial hardship.  
(Justman/Hurley: 4-1; Becker dissenting)

D. 55 Chumasero #6K

AT070148

The tenant's appeal was filed four and one-half months late because the lease agreement showed that the increase was pending, and the tenant did not realize that it had been approved.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Gruber/Mosbrucker: 5-0)



MSC: To find good cause for the late filing of the appeal.  
(Mosbrucker/Marshall: 5-0)

The landlord's petition for approval of utility passthroughs for 58 of 153 units was approved. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship only.  
(Mosbrucker/Marshall: 5-0)

E. 1657 Market #28

AT070117

The tenant's petition alleging an unlawful rent increase was granted and the landlord was found liable to the tenant for any sums paid by the tenant in excess of \$550.00 per month. Additionally, the landlord was ordered to make restitution to a social services program for any sums in excess of the lawful amount that they paid on behalf of the tenant. On appeal, the tenant explains that the social services program only serves as his Representative Payee, and that all overpayments should be refunded to him.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the record to revise the Decision and order that the overpayments be refunded to the tenant only.  
(Marshall/Becker: 5-0)

F. 2340 Filbert St.

AT070147

The landlord's petition for a determination pursuant to Rules §1.21 and Costa-Hawkins was granted and the ALJ found that the landlord is entitled to increase the rent from \$818.00 to \$2,400.00 because the original occupant no longer permanently resides in the subject unit and the subtenant commenced occupancy after January 1, 1996. Upon the second Writ of Administrative Mandamus filed by the tenant in Superior Court, the case was remanded to the Rent Board to make further findings as to whether the landlord waived her right to the increase based on whether the written notice of the subtenant's occupancy provided the landlord with the information necessary to be aware that she was entitled to a market increase because the original tenant no longer permanently resided in the unit. In the second Decision on Remand from Superior Court, the ALJ determines that the tenant did not provide such written notice to the landlord and the landlord had therefore not waived her right to an unlimited rent increase. On further appeal, the tenant argues that: the landlord was informed in writing on several occasions of all the facts necessary for her to know that she was entitled to a Costa-Hawkins rent increase; the ALJ appears to incorrectly equate the "permanently reside" standard with principal place of residence; and knowledge



the landlord acquired prior to the passage of Costa-Hawkins could have been applied by her after the passage of the legislation.

MSC: To deny the appeal. (Hurley/Gruber: 3-2; Becker, Marshall dissenting)

G. 759 – 14<sup>th</sup> Ave.

AL070149

The landlord's petition seeking a determination pursuant to Rules §1.21 was denied because the ALJ found that the subject unit is the tenant's principal place of residence. On appeal, the landlord claims that: the tenant spends the majority of his time at a second home in Inverness, where his vehicle is registered; the tenant took a Homeowner's Exemption on the Inverness property until after the petition was filed; there is an error in the decision as to the date the tenant acquired the Inverness property; and the ALJ gave inappropriate weight to the tenant's testimony and omitted relevant facts that weigh in favor of the landlord.

MSC: To deny the appeal. (Marshall/Becker: 3-2; Gruber, Hurley dissenting)

H. 555 Florida St. #316

AT070068  
(cont. from 5/22/07)

The tenant's petition alleging unlawful rent increases was denied because the Administrative Law Judge (ALJ) found that the tenant's unit is exempt from Rent Board jurisdiction as a newly constructed unit pursuant to Costa-Hawkins. On appeal, the tenant argues that: the building was constructed before 1995 and therefore the units are not newly constructed; a certificate of occupancy was not issued after February 1, 1995; there has been existing residential use and any certificate of occupancy issued in the future should not have retroactive effect; the building is also not exempt as substantial rehabilitation; the ALJ's determination should have been made pursuant to the provisions of Rules §1.17(g) and statutory procedural requirements, which should have been strictly construed; the Fire Department cannot issue temporary certificates of occupancy; the permits proffered by the landlord did not qualify for temporary certificates of occupancy; the ALJ failed to consider the effect of the expiration of the relevant permits; and no lawful conversion of the subject unit has occurred and the unit is therefore subject to the jurisdiction of the Rent Ordinance, which renders the rent increases null and void. Due to the absence of a Neutral Commissioner, consideration of this appeal was continued from the May 22nd meeting.

MSC: To deny the appeal. (Hurley/Gruber: 3-2; Becker, Marshall dissenting)



IV. Remarks from the Public (cont.)

G. Simone Brixel, a tenant at 555 Florida Street, told the Board that she is German and "in Germany, we follow the laws." Ms. Brixel said that the Ordinance says the building has to have a Certificate of Occupancy, and the Florida Street building doesn't have one. Ms. Brixel told the Commissioners that they are there to protect tenants. She believes that "money buys everything in this City," which is unfair.

H. Val Steele, one of the landlords at 14<sup>th</sup> Avenue, said that the "spirit of rent control" and the provision of affordable housing are not being protected. She said that the Commissioners were acting as "social advocates" as opposed to protecting landlords' rights. Ms. Steele alleged that the tenant's children never lived in the subject unit and that he had defrauded Marin County and his insurance company. Ms. Steele believes that "anyone who can afford a second home shouldn't be protected by rent control."

VI. Communications

The Commissioners received the following communications:

A. An article from BeyondChron regarding the status of SB 464.

B. An article from the New York Post regarding a successful lawsuit filed by a tenant due to noise from a neighboring unit.

VII. Calendar Items

June 26<sup>th</sup> & July 3<sup>rd</sup>, 2007 - NO MEETINGS

July 10, 2007

Parkmerced and 2 other appeals

VIII. Adjournment

President Gruber adjourned the meeting at 7:25 p.m.







**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,

July 10, 2007

25 Van Ness Avenue, #70, Lower Level

**AGENDA**

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

POLLY MARSHALL

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY

I. Call to Order

DOCUMENTS DEPT.

II. Roll Call

JUL 10 2007

III. Approval of the Minutes

SAN FRANCISCO  
PUBLIC LIBRARY

IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. Parkmerced

AT070069 thru -98  
AT070151

Twenty-eight tenants appeal the decision granting rent increases based on increased operating expenses; eleven on substantive grounds, and seventeen due to financial hardship.

**Financial Hardship Claims:**

- |                         |          |
|-------------------------|----------|
| 1. 223 Serrano Dr.      | AT070069 |
| 2. 16 Fuente Ave.       | AT070070 |
| 3. 12 Fuente Ave.       | AT070071 |
| 4. 9 Gonzalez Dr.       | AT070108 |
| 5. 226 Cardenas Ave.    | AT070078 |
| 6. 55 Chumasero Dr. #6K | AT070080 |
| 7. 55 Chumasero Dr. #ME | AT070082 |
| 8. 50 Chumasero Dr. #2J | AT070083 |
| 9. 747 Gonzalez Dr.     | AT070086 |
| 10. 12 Garces Dr.       | AT070088 |
| 11. 514 Arballo Dr.     | AT070090 |
| 12. 414 Arballo Dr.     | AT070092 |



13. 41 Pinto Ave.	AT070094
14. 344 Serrano Dr.	AT070105
15. 405 Serrano Dr. #10G	AT070096
16. 405 Serrano Dr. #12D	AT070098

Substantive Claims:

17. 7A Gonzalez Dr.	AT070072
9 Gonzalez Dr.	AT070073
3 Gonzalez Dr.	AT070074
7 Gonzalez Dr.	AT070075
18. 100 Font Blvd. #1K	AT070079
19. 55 Chumaseo Dr.	AT070081
20. 329 Font Blvd.	AT070084
21. 325 Font Blvd.	AT070118
22. 128 Garces Dr.	AT070089
23. 355 Serrano Dr. #12C	AT070095
24. 405 Serrano Dr. #10G	AT070097
 B. 1030 Post St. #507-08, 310, 214, 110, 201-02, 305	 AL070152

The landlord appeals the decision finding that the units are subject to Rent Board jurisdiction even though they are regulated pursuant to the federal Low Income Housing Tax Credit Program.

C. 407 Broadway #8	AT070153
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The tenant appeals the decision determining that the unit is not their principal place of residence pursuant to Rules §1.21.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- IX. New Business
- X. Calendar Items



XI. Adjournment





## ACCESSIBLE MEETING POLICY

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4603 at least 72 hours prior to the meeting. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4603 to place your specific request. Late requests will be honored if possible.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

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MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, July 10, 2007 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

I. Call to Order

President Gruber called the meeting to order at 6:10 p.m.

DOCUMENTS DEPT.

JUL 23 2007

SAN FRANCISCO  
PUBLIC LIBRARY

II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;  
Marshall; Mosbrucker; Mosser.  
Staff Present: Gartzman; Wolf.

Commissioner Murphy appeared on the record at 6:20 p.m.; Commissioner Justman arrived at the meeting at 6:27 p.m. Commissioner Mosser went off the record at 7:45 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of June 19, 2007.  
(Hurley/Marshall: 4-0)

IV. Remarks from the Public

A. Tenant Michael Perlas of Parkmerced (AT070081) told the Board that the Administrative Law Judge's interpretation that the current landlord is not the "same landlord" as meant in Ordinance §37.8(b)(1)(A) is incorrect. Mr. Perlas objected to the tenants' not having been provided with copies of the landlord's supplementary exhibits on appeal, and he asserted that they did not have sufficient time to respond. Mr. Perlas believes that questions regarding ownership of the complex are still unanswered. He alleged that an interoffice memorandum from a prior employee of Parkmerced is "false and libelous" and requested that it be stricken from the public record. Mr. Perlas believes that equity requires voiding of the decision approving the operating expense increases.

B. Tenant Mukund Venkatachari of Parkmerced (AT070095) echoed many of tenant Perlas' comments. Additionally, Mr. Venkatachari expressed his belief that the calculation periods chosen by the landlord create exaggerated results, particularly in the category of insurance, but in several of the other expense categories as well. Mr. Venkatachari maintained that the increases authorized by the decision are in violation of Rules §6.10(a).

V. Consideration of Appeals

A. Parkmerced

AT070069 thru – 0098

The landlord's petition for rent increases based on increased operating expenses for 1,633 of 3,287 units was granted, in part. The tenants in 19 units appeal the decision, 8 alleging financial hardship and 11 on substantive grounds, as follows below:

FINANCIAL HARDSHIP CLAIMS:

1. 16 Fuente

AT070070

The tenant's appeal was filed two weeks late because he did not realize that he could not afford to pay the increase until he received the accounting sent to the tenants by the landlord.

MSC: To find good cause for the late filing of the appeal.  
(Justman/Gruber: 5-0)

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Gruber: 5-0)

2. 226 Cardenas

AT070078

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Henderson: 5-0)

3. 747 Gonzalez

AT070086

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Justman: 5-0)

4. 514 Arballo

AT070090

The tenants' appeal was filed 16 days late because the tenants had not yet received their accounting from Parkmerced.

MSC: To find good cause for the late filing of the appeal.  
(Murphy/Marshall: 5-0)

MSC: To accept the appeal and remand the case for a hearing on the tenants' claim of financial hardship. (Henderson/Marshall: 5-0)

5. 41 Pinto

AT070094

The tenant's appeal was filed two weeks late because the tenant was not aware he could appeal the decision on the grounds of financial hardship.

MSC: To find good cause for the late filing of the appeal.  
(Murphy/Henderson: 5-0)

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Henderson: 5-0)

6. 344 Serrano

AT070105

The tenants' appeal was filed 18 days late because they were not aware there was a deadline for filing.

MSC: To find good cause for the late filing of the appeal.  
(Gruber/Henderson: 5-0)

MSC: To accept the appeal and remand the case for a hearing on the tenants' claim of financial hardship. (Murphy/Gruber: 5-0)

7. 405 Serrano #10G

AT070096

MSC: To accept the appeal and remand the case for a hearing on the tenants' claim of financial hardship. (Murphy/Henderson: 5-0)

8. 405 Serrano #12D

AT070098

The tenant's appeal was filed two weeks late because the tenant hadn't yet received the accounting from Parkmerced.

MSC: To find good cause for the late filing of the appeal.  
(Marshall/Murphy: 5-0)

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Henderson/Marshall: 5-0)

SUBSTANTIVE CLAIMS:

9. 7A Gonzalez	AT070072
9 Gonzalez	AT070073
3 Gonzalez	AT070074
7 Gonzalez	AT070075

The tenants in four units appeal the decision on the grounds that: they have experienced decreased housing services, including reduced garbage pick-up, mold, lack of paint, dirty laundry rooms, and overgrown weeds; the annual increase should cover any increased expenses the landlord incurs; noise from resident college students has negatively affected the quality of life at the complex; and there was a power outage for 24 hours.

MSC: To deny the appeals. (Justman/Murphy: 5-0)

10. 100 Font #1K	AT070079
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The tenant appeals on the grounds that a rent increase should only be given at the time of the tenant's lease renewal.

MSC: To deny the appeal, however, this does not preclude the tenant from filing a tenant petition alleging an unlawful rent increase should she be given the operating expense increase at a time other than her anniversary date. (Murphy/Justman: 5-0)

11. 55 Chumasero #12G	AT070081
-----------------------	----------

The tenant appeals on the grounds that: an employee of the new owners also worked for the prior owner, and therefore there is not a new landlord for purposes of the 5-year limitation on operating expense increases; the effective date of the rent increase should be the date that the new owner substituted in to the petition; and the annual allowable increase that was in effect at the time the new landlord substituted in should be used to determine the amount of the operating expense increase.

MSC: To accept the appeal and remand the case to the Administrative Law Judge with instructions to find that Ordinance §37.8(b)(1)(A) does not permit this increase to take effect until five years from the date that the O&M 1 increase was imposed; to deny the appeal on all other grounds.

(Marshall/Henderson: 5-0)

12. 329 Font

AT070084

The tenants appeal on the grounds that, since the new landlord substituted in to the petition for the prior owner, they are not a different landlord for purposes of exemption from the 5-year limitation on operating expense increases by the same owner.

MSC: To accept the appeal and remand the case to the Administrative Law Judge with instructions to find that Ordinance §37.8(b)(1)(A) does not permit this increase to take effect until five years from the date that the O&M 1 increase was imposed; to deny the appeal on all other grounds.  
(Marshall/Henderson: 5-0)

13. 325 Font

AT070118

The tenant appeals on the grounds that: the petition was filed 3 years after a prior O&M petition had been filed by the prior owner, in violation of the 5-year limitation on operating expense increases by the same owner; transfer of ownership was not documented; work orders were not provided by the landlord; the landlord's new earthquake insurance policy does not benefit the tenants; there should have been no increase in garbage expenses, since garbage collection has been reduced; payroll costs should not have increased when there were fewer employees; increased office costs were not proved; the costs of debt service and property taxes actually went down; the burden of proof was inappropriately shifted to the tenants; and the petition should have been administratively dismissed.

MSC: To accept the appeal and remand the case to the Administrative Law Judge with instructions to find that Ordinance §37.8(b)(1)(A) does not permit this increase to take effect until five years from the date that the O&M 1 increase was imposed; to disallow consideration of insurance expenses; and to deny the appeal on all other grounds.  
(Marshall/Henderson: 5-0)

14. 128 Garces

AT070089

The tenants appeal on the same grounds as the tenant at 325 Font, directly above.



MSC: To accept the appeal and remand the case to the Administrative Law Judge with instructions to find that Ordinance §37.8(b)(1)(A) does not permit this increase to take effect until five years from the date that the O&M 1 increase was imposed; to disallow consideration of insurance expenses; and to deny the appeal on all other grounds.  
(Marshall/Henderson: 5-0)

15. 355 Serrano #12C

AT070095

The tenant appeals on the grounds that: the landlord failed to prove that the increase in insurance costs was not temporary and the comparison periods could have been chosen to produce exaggerated results; the effective date for the rent increases should be the date that the new landlord subbed in to the petition; the allowable rent increase in effect on the effective date of the rent increases should be used; and the new owner as successor to the prior owner should not be allowed to impose an O&M increase within 5 years of the prior O&M increase.

MSC: To accept the appeal and remand the case to the Administrative Law Judge with instructions to find that Ordinance §37.8(b)(1)(A) does not permit this increase to take effect until five years from the date that the O&M 1 increase was imposed; to disallow consideration of insurance expenses; and to deny the appeal on all other grounds.  
(Marshall/Henderson: 5-0)

16. 405 Serrano #10-G

AT070097

The tenant appeals on the grounds that the annual increase should cover the landlord's expenses, and it should not be the tenants' responsibility to pay for the upkeep and maintenance of the property.

MSC: To deny the appeal. (Justman/Gruber: 5-0)

B. 1030 Post St. #507-08, 310, 214, 110,  
201-02, 305

AL070152

Six tenants filed petitions requesting a determination as to whether their units are exempt from the Rent Ordinance; the petitions were consolidated for a hearing on jurisdiction. The Administrative Law Judge (ALJ) found that, although the units are covered by a regulatory agreement pursuant to the federal low-income housing tax credit program, a December 20, 2006 amendment to the Rent Ordinance made such units subject to the jurisdiction of the Rent Board. The landlord appeals, asserting that the decision is in error because: the landlords

never conceded that the amendment to Ordinance §37.2(r)(4) applies to the subject units; and the ALJ erred by failing to consider the legal arguments raised by the landlord.

MSC: To deny the appeal. (Becker/Marshall: 3-2; Gruber, Murphy dissenting)

C. 407 Broadway #8

AT070153

The landlord's petition seeking a determination pursuant to Rules §1.21 was granted because the ALJ found that the subject unit is not the tenant's principal place of residence. On appeal, the tenant claims that the decision is unfair because the landlord's witnesses live on another floor of the building and therefore would not know whether or not the tenant lives in the building.

MSC: To deny the appeal. (Hurley/Gruber: 3-1; Marshall dissenting)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A Memorandum from John St. Croix, Executive Director of the Ethics Commission, regarding new regulations regarding gifts from restricted sources and gifts from subordinates.

B. A letter from Susan Sangiacomo of Trinity Properties requesting an Advisory Opinion from the Board on the question of whether charges associated with the payment of rent by credit card could be assessed to tenants without being considered unlawful rent increases. This issue will be calendared for discussion at the next Board meeting.

#### VII. Director's Report

Executive Director Wolf updated the Board on the progress of the search for an Alternate Neutral Commissioner to replace ex-Commissioner Wasserman.

#### IV. Remarks from the Public (cont.)

C. Tenant Michael Perlas asked for clarification as to whether the Board's action on the Parkmerced appeals apply only to the appellants, and expressed his belief that the Board's decision regarding the application of Ordinance §37.8(b)(1)(A) and "exaggerated results" should apply to all tenants included in the petition.

D. Tenant Mukund Vankatachari asked several hypothetical questions regarding the imposition of this and any future O&M increases on the part of the landlord.

VIII. Calendar Items

July 17, 2007 - NO MEETING

July 24, 2007

7 appeal considerations

New Business:

Rent Board Statement of Incompatible Activities

Request for Advisory Opinion Regarding Charges Associated with  
Payment of Rent by Credit Card

IX. Adjournment

President Gruber adjourned the meeting at 8:30 p.m.





DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

Tuesday, 6:00 p.m.,  
July 24, 2007  
25 Van Ness Avenue, #70, Lower Level

**AGENDA**

DEBORAH HENDERSON

JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER

BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 837 Oak St. AT070159

The tenant appeals the decision issuing a determination as to the proper base rent for the unit.

B. 1150 Clay St. AL070158

The Master Tenant appeals the decision finding that the subtenant paid more than her proportional share of the rent pursuant to Rules §6.15C(3).

C. 1090 Jackson #4 AT070154

The tenants in one unit appeal the decision certifying capital improvement costs on the grounds that they were not responsible for the leaks that necessitated the work.

D. 522 Bowdoin St. AT070155

The tenant appeals the decision determining the proper base rent and partially granting a claim of unlawful rent increases.

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E. 1750 Greenwich St., Unit 6

AL060117  
(cont. from 12/12/06)

The landlord re-opens consideration of their appeal of a determination that the unit is the tenant's principal place of residence pursuant to Rules §1.21.

F. 373 Duncan #2

AL070156

The landlord appeals the decision determining the proper base rent and granting a claim of unlawful rent increases.

G. 3330 Pierce St. #103

AT070157

One tenant appeals the decision approving utility passthroughs.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

A. Rent Board Statement of Incompatible Activities

B. Request for Advisory Opinion Regarding Charges Associated With Payment of Rent by Credit Card

X. Calendar Items

XI. Adjournment



### ACCESSIBLE MEETING POLICY

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會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

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### Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

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Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

### Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.





DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

Tuesday, July 24, 2007 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

I. Call to Order

President Gruber called the meeting to order at 6:05 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Mosbrucker.  
Commissioners not Present: Hurley; Marshall; Mosser.  
Staff Present: Lee; Wolf.

Commissioner Justman appeared on the record at 6:07 p.m.; Commissioner  
Murphy arrived at the meeting at 6:15 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of July 10, 2007.  
(Becker/Mosbrucker: 3-0)

IV. Consideration of Appeals

A. 837 Oak St.

AT070159

The landlord filed a petition requesting a determination of the tenant's proper base rent, which was found to be \$300 per month. The tenant failed to appear at the hearing. On appeal, the tenant claims not to have received notice of the hearing, and that the landlord has a history of tenant abuses. The tenant's appeal was filed approximately three months late because the tenant claims that she received "delayed notice."

MSC: To find no good cause for the late filing of the appeal. The  
Decision of the Administrative Law Judge is therefore final.  
(Gruber/Justman: 3-1; Becker dissenting)

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B. 1150 Clay St., Apt. 1

AL070158

The subtenant's petition pursuant to Rules §6.15C(3) was granted and the Administrative Law Judge (ALJ) found that the subtenant paid more than her proportional share of the rent to the Master Tenant in the amount of \$3,900.00. On appeal, the Master Tenant argues that: the subtenant agreed to pay the amount of rent found to be unlawful; the subtenant's tenancy was only supposed to be temporary; the Master Tenant is afraid of the subtenant; and the decision presents her with a financial hardship.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the Master Tenant's claim of financial hardship only. (Mosbrucker/Justman: 4-0)

C. 1090 Jackson #4

AT070154

The landlord's petition for certification of capital improvement costs to 5 of 7 units was granted, in part. The tenants in one unit appeal the decision because the capital improvement work in their bathroom was caused by leaks from the upstairs unit and, since the tenants were not responsible for the leaks, they do not feel that they should have to pay for the work.

MSC: To accept the appeal and remand the case to the Administrative Law Judge with instructions to find that the new floor and window associated with the bathroom remodel work in unit #4 constitute capital improvements, while the rest of the work associated with the bathroom remodel is in the nature of repair and those costs cannot be passed through to the tenants. (Becker/Mosbrucker: 5-0)

D. 522 Bowdoin St.

AT070155

The tenant filed a petition alleging unlawful rent increases and asking for a determination of the proper base rent. The Administrative Law Judge found that the landlords were liable to the tenant in the amount of \$750.00 due to a renegotiated rent upon the signing of a new lease, but that the restoration of an agreed-upon base rent figure once the tenant obtained employment was lawful. The tenant appeals, claiming that: the rent was paid for the month of April 2005; a document entered into evidence by the landlord is null and void because it was notarized by one of the landlords; and the tenant has not received any of the overpaid sums.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)





E. 1750 Greenwich St., Unit 6

AL060117  
(cont. from 12/12/06)

The landlord's petition seeking a determination pursuant to Rules §1.21 was denied because the ALJ found that the subject unit was still the tenant's principal place of residence, although she had been absent for several years to care for her bedridden mother. The landlord appealed the decision and the Board continued consideration of the appeal for eight months, after which time they requested that each side submit supplemental evidence; they also specified that the appeal could be considered earlier should the tenant's circumstances change. The landlord has re-opened the case, claiming that the tenant's mother has died but the tenant has not resumed residency at the subject unit.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a supplemental hearing. (Murphy/Justman: 5-0)

F. 373 Duncan #2

AL070156

The tenant's petition alleging unlawful rent increases and asking for a determination of the proper base rent was granted and the landlord was found liable to the tenant in the amount of \$23,735.92. On appeal, the landlord maintains that the building was not subject to the jurisdiction of the Rent Ordinance prior to the passage of Proposition I in 1994 and the rent overpayment calculations are therefore incorrect.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the tenant's rent history.  
(Murphy/Justman: 5-0)

G. 3330 Pierce St., #103

AT070157

The landlord's petition for approval of utility passthroughs for 11 of 21 units was granted. One tenant appeals the decision, asserting that she does not have steam heat in her unit and should only be charged for utility costs associated with the garage, which is in the common area of the building.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)

#### V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the office workload statistics for the month of June and a new Commissioners' roster.



VI. Remarks from the Public

A. Irina Nudelman, the Master Tenant in the case at 1150 Clay St. (AL070158), told the Board that the aggressive behavior of the subtenant forced her to move out of the unit.

B. Tenant Martha Delgado of 373 Duncan #2 (AL070156) said that the landlord has given her excessive rent increases over her 22-year tenancy, including the fact that she now has to pay \$50 for water and garbage collection.

VII. New Business

A. Rent Board Statement of Incompatible Activities

The Commissioners received a copy of the agency's proposed Statement of Incompatible Activities, which has been approved by the Ethics Commission and is currently going through the Meet and Confer process with the relevant unions.

B. Request for Advisory Opinion Regarding Charges Associated With Payment of Rent by Credit Card

The Board received a letter from Susan Sangiacomo of Trinity Properties asking whether having a tenant pay costs associated with payment of rent by credit card would constitute an unlawful rent increase. After discussion, the Commissioners declined to offer an advisory opinion, since the Tenant Commissioners expressed some concerns. If the tenant community changes their mind about the desirability of this practice in the future, they can ask that this issue be re-calendared. Landlord Greg Blaine told the Board members that he uses rentpayment.com for this purpose, and the company, not the landlord, receives the fees.

VIII. Calendar Items

July 31<sup>st</sup>, August 7<sup>th</sup> and 14<sup>th</sup>, 2007 - NO MEETINGS

August 21, 2007

9 appeal considerations

IX. Adjournment

President Gruber adjourned the meeting at 7:20 p.m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
August 21, 2007

25 Van Ness Avenue, #70, Lower Level

**AGENDA**

DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

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NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

A. 250 Fell St. #45

AT070169

One tenant appeals the decision certifying capital improvement costs on the grounds of financial hardship.

B. 427 Stockton St. #305

AL070168

The landlord appeals the decision granting a claim of decreased housing services, alleging non-receipt of the Notice of Hearing.

C. 1701 North Point #302

AT070163

The tenant appeals the remand decision conditionally granting a claim of financial hardship.

D. 1781 Revere Ave., Unit A

AT070162

One tenant in the unit appeals the decision granting a rent increase based on comparable rents.

E. Golden Gateway Center, Phase 1

AL070160



The landlord appeals the decision partially granting utility passthroughs.

F. Golden Gateway Center, Phase 2 AL070161

Same as Golden Gateway Center, Phase 1, above.

G. 164 Hancock St. AT070164

The subtenant appeals the decision finding that he did not pay more than a proportional share of the rent pursuant to Rules §6.15C(3).

H. 1209 Waller St. AL070165

The Master Tenant appeals the decision finding that the subtenants paid more than their proportional share of the rent pursuant to Rules §6.15C(3).

I. 2444 Van Ness Ave. #4 AL070167

The landlord appeals the decision finding that the Rent Board has jurisdiction over this condominium unit because the landlord failed to prove that the unit was sold separately to a bona fide purchaser for value nor that the unit constitutes new construction.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

- IX. New Business
- X. Calendar Items
- XI. Adjournment







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DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

DEBORAH HENDERSON  
JIM HURLEY  
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NEVEO MOSSER  
BARTHOLOMEW MURPHY

**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, August 21, 2007 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

I. Call to Order

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Vice-President Becker called the meeting to order at 6:10 p.m.

AUG 31 2007

II. Roll Call

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Commissioners Present: Becker; Henderson; Hurley; Mosser.  
Commissioners not Present: Gruber.  
Staff Present: Gartzman; Wolf.

Commissioner Marshall appeared on the record at 6:13 p.m.; Commissioner Mosbrucker arrived at the meeting at 6:15 p.m.; Commissioner Justman appeared at 6:20 p.m.; and Commissioner Murphy at 6:35 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of July 24, 2007.  
(Henderson/Mosser: 4-0)

IV. Remarks from the Public

A. John Exworthy, the Master Tenant at 1209 Waller (AL070165), said that he appreciates the Rent Board, or he wouldn't be paying low rent. Mr. Exworthy told the Commissioners that he "fixed up the place and made it nice" and that there should be something he could study to know what he can charge his roommates to share in the expenses.

B. Tom Bostock spoke on behalf of tenant William Bayma of 1701 North Point #302 (AT070163) by saying that he is a neighbor of Mr. Bayma's and he hasn't seen evidence of Mr. Bayma holding any garage sales in months. Mr. Bostock also said that Mr. Bayma has never been a nuisance.





C. Alexandra Grover lives across from the North Point property and said that she hasn't seen a garage sale since the end of 2005; she also mentioned that Mr. Bayma is a pleasant neighbor.

D. Al Ginsberg submitted a declaration on behalf of William Bayma saying that, if you believe the proceedings in the recent hearing, Mr. Bayma is now a "bad guy" although the only change is the fact that he has a new landlord. Mr. Ginsberg said that the landlord is lying, "throwing stuff on the wall to see what will stick," and has taken away services.

E. John Jordan said that Mr. Bayma hasn't had any more garage sales since the landlord asked him not to.

F. William Bayma made sure that the Commissioners received all of the paperwork that he submitted and read a statement summarizing his appeal.

G. Leland Grover said that Mr. Bayma is an excellent neighbor.

H. Mr. B. Soffer spoke on behalf of Master Tenant John Exworthy of 1209 Waller. Mr. Soffer said that Mr. Exworthy provides short-term housing at a reasonable rent, and that Rules §6.15 is for an unfurnished place. Mr. Soffer expressed his belief that the Administrative Law Judge (ALJ) didn't understand the value of the artwork provided by Mr. Exworthy.

V. Consideration of Appeals

A. 250 Fell St. #45

AT070169

The landlord's petition for certification of capital improvement costs to 31 of 46 units was granted, resulting in a monthly passthrough in the amount of \$80.26. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the tenant's claim of financial hardship. (Murphy/Justman: 5-0)

B. 427 Stockton St. #305

AL070168

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$500.00 due to a leaking hole in the wall. The landlord failed to appear at the hearing. On appeal, the landlord's property manager claims not to have received the Notice of Hearing, and attaches the requisite Declaration of Non-Receipt of Notice of Hearing.



MSC: To accept the appeal and remand the case to the Administrative Law Judge for a new hearing. (Mosser/Murphy: 5-0)

C. 1701 North Point #302

AT070163

The tenant's hardship appeal of a decision approving a rent increase based on increased operating expenses was granted at this time. However, the ALJ stipulated that the tenant must inform the landlords of any inheritance he receives within 30 days, and the landlords may re-open the case should they believe that the tenant no longer qualifies under the Board's hardship guidelines. The tenant appeals that portion of the remand decision, claiming that: the decision violates his privacy rights; the landlord's failure to respond to his appeal prior to the hearing prejudiced the tenant's presentation; the mediation portion of his hearing violated his due process rights; the landlords did not conduct themselves in "good faith and fair dealings;" the ALJ's finding that his testimony was not credible should be stricken from the record; and he qualifies for a permanent deferral of the approved O&M increase.

MSC: To accept the appeal and remand the case to the Administrative Law Judge to revise the language in the Decision so that the landlord can request that the case be re-opened no more frequently than every twelve months, commencing September of 2008, only to examine the issue of any inheritance that the tenant may receive. (Marshall/Murphy: 5-0)

D. 1781 Revere Ave., Unit A

AT070162

The landlord's petition for a rent increase from \$600 to \$1,350.00 per month based on comparable rents was granted. One of the tenants in the unit appeals the decision on the grounds that he is not a family member, and the comparables increase should not apply to him.

MSC: To deny the appeal. (Mosser/Murphy: 5-0)

E. Golden Gateway Center, Phase 1

AL070160

The landlord filed a petition for approval of utility passthroughs for 116 of 794 units. Although the landlord had purchased natural gas from Commercial Energy of California, the landlord voluntarily elected to use cost data from PG&E, which was lower, to the benefit of the tenants. However, for one month when the PG&E costs were higher than the Commercial Energy costs, the ALJ used the Commercial Energy costs that the landlord actually paid. The landlord appeals this portion of the decision, asserting that: no provision of the Ordinance or Rules requires this result; the Rules and Regulations provide that all increases in





utility costs shall be recovered; Rules §6.16 requires that annual and not monthly cost figures be used; and the landlord should recover the total difference in costs from one year to the next, without cost comparisons between one provider and another.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

F. Golden Gateway Center, Phase 2

AL070161

The issues in this appeal are identical to those in the Phase 1 appeal, above.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

G. 164 Hancock St.

AT070164

The subtenant filed a petition requesting a determination of the proper base rent pursuant to Rules §6.15C(3). The ALJ determined that the subtenant did not pay more than a proportional share of the rent because the Master Tenant was rarely in the unit, had few possessions there and the subtenant had unrestricted access to the entire unit. On appeal, the subtenant maintains that: he did not have exclusive use of the Master Tenant's rooms in the unit and it is inconsequential that the Master Tenant did not make use of those rooms for purposes of determining his liability for rent.

MSC: To deny the appeal. (Marshall/Becker: 5-0)

H. 1209 Waller St.

AL070165

Two subtenants filed petitions requesting a determination of the proper base rents pursuant to Rules §6.15C(3). The ALJ found that both tenants paid more than their proportional share of the rent to the Master Tenant, who was found liable to the subtenants in the amount of \$1,160.00 and \$720.00. On appeal, the Master Tenant argues that: there were additional amenities furnished to the subtenants, besides those enumerated in the decision; the subtenants agreed to pay 1/3 share for utilities; the subtenants were in arrears on their rent at the time they vacated the unit; and the amount of the overpayments is excessive, because the additional housing services furnished were undervalued by the ALJ.

MSC: To deny the appeal. (Marshall/Murphy: 5-0)

I. 2444 Van Ness Ave. #4

AL070167

The tenant filed a Summary Petition challenging a noticed rent increase. A decision was issued finding that the Rent Board has jurisdiction over the subject



condominium unit, because the ALJ found that the landlord had failed to prove that the unit was sold separately to a bona fide purchaser for value nor that the unit is exempt as new construction. The landlord was therefore found liable to the tenants for rent overpayments in the amount of \$1,000.00. On appeal, the landlord argues that the original subdividers of the property sold the unit to a bona fide purchaser for value, even though the members of the LLC who currently own the property were part of the original subdividing group, and provides supporting documentation as to the transfers of ownership since the time the unit was converted to a condominium.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a new hearing to make Findings regarding the value of the property at the time of the transfer; tenancy in the unit between the time of issuance of the subdivision map and the subject tenancy; and whether additional property taxes were paid. The Administrative Law Judge shall then make Conclusions as to whether this transfer was to a bona fide purchaser for value.  
(Marshall/Justman: 5-0)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A copy of the Court of Appeal Decision in Action Apartment Association v. City of Santa Monica (Ct.App. 2/5 B165082) and an article from BeyondChron regarding the case.

B. An article from Capitol Weekly regarding eminent domain measures which are currently under consideration for the June 2008 ballot.

C. An article from the Los Angeles Times regarding a bedbug infestation in Southern California.

D. A new Rent Board Commissioners' roster.

#### VII. Director's Report

Executive Director Wolf informed the Board as follows:

A. The rental unit fee for the fiscal year 20-07-08 will be \$26 per residential unit and \$13 per guest unit.



B. On June 29, 2007 the Appellate Division of the San Francisco Superior Court ruled in Erdmann v. Dalton (Superior Court Case No. 618054) that Ordinance §37.9(a)(8)(vi) prohibiting a landlord from recovering a second unit in a building for owner-occupancy eviction purposes is prospective -- the limitation applies only to evictions after the effective date of Proposition G on December 18, 12998.

VIII. Calendar Items

August 28, 2007 - NO MEETING

September 4, 2007  
10 appeals (4 Parkmerced)

XI. Adjournment

Vice-President Becker adjourned the meeting at 7:38 p.m.





NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
September 4, 2007  
25 Van Ness Avenue, #70, Lower Level

AGENDA

DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

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NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public  
shall be limited to comments of no more than 3 minutes' duration.

A. 15 Hermann St. #206 AT070179

The tenant appeals the decision approving utility passthroughs.

B. 2935 Fillmore St. AL070177

The landlords appeal the decision granting claims of decreased  
housing services and unlawful rent increase.

C. 8 Carl St. AT070171

The tenant appeals the decision granting a utility passthrough.

D. 1606 – 18<sup>th</sup> Ave. AL070170

The landlord appeals the decision granting a claim of unlawful rent  
increases.

E. 1062-1066 Florida AT070172







The tenant appeals the decision denying claims of decreased housing services.

F. Parkmerced:

566 Arballo Dr.

AT070173

The tenant appeals the decision granting rent increases based on increased operating expenses on the grounds of financial hardship.

126 Garces Dr.

AT070174

The tenant appeals the decision granting rent increases based on increased operating expenses on substantive grounds.

55 Chumasero Dr. 12-C

AT070175

The tenant appeals the decision granting rent increases based on increased operating expenses on substantive grounds.

106 Crespi Dr.

AT070176

The tenant appeals the decision granting rent increases based on increased operating expenses on substantive grounds.

G. 115 Haight St., Apt. #5

AT070178

The tenant appeals the decision denying claims of decreased housing services.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

IX. New Business

X. Calendar Items

XI. Adjournment





### ACCESSIBLE MEETING POLICY

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會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

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### Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.





DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

Tuesday, September 4, 2007 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

POLLY MARSHALL

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY

**I. Call to Order**

President Gruber called the meeting to order at 6:05 p.m.

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**II. Roll Call**

Commissioners Present: Becker; Gruber; Henderson; Hurley.  
Commissioners not Present: Justman; Marshall; Mosser.  
Staff Present: Gartzman; Wolf.

Commissioner Mosbrucker appeared on the record at 6:10 p.m.;  
Commissioner Murphy arrived at the meeting at 6:30 p.m.

**III. Approval of the Minutes**

MSC: To approve the Minutes of August 21, 2007.  
(Becker/Hurley: 4-0)

**IV. Remarks from the Public**

A. Terrence Faulkner, a co-tenant at 106 Crespi Drive (AT070175), said that the current owners of Parkmerced are the same as the prior owners; that the tenants filed their appeal late because "it took a while for the whole thing to trickle down;" that Parkmerced had a "fiduciary duty" but mis-represented figures on their petition; and the Statute of Limitations for filing appeals shouldn't apply under these circumstances.

B. Tenant Jessica Chung-Hwa Nam of 55 Chumasero Drive #12C in Parkmerced said that the landlord can't use the expenses of a prior landlord for an operating expense increase under the Ordinance, which says that there can't be two O&M increases within a five-year period; and the landlord's insurance expenses were exaggerated.



C. Co-tenant Thomas Agee of 106 Crespi Drive said that Parkmerced didn't make the information available to the tenants, who thought that the Parkmerced Residents' Organization (PRO) was taking care of everything. Mr. Agee said that he has since found out that this is not the case. Mr. Agee feels that the insurance figures are "not right."

D. Attorney Karen Uchiyama, representing the landlord in the case at 1606 – 18<sup>th</sup> Avenue (AL070170), said that her client lives in Honolulu and there needs to be an evidentiary hearing in the case. Ms. Uchiyama explained that she dismissed the Unlawful Detainer with the understanding that "that would be it," and she maintained that there was no communication from the other side. Her client therefore failed to appear and now owes in excess of \$16,000 to the tenant. Ms. Uchiyama expressed her belief that tenants get a new hearing when they "blow it."

E. Denis Norrington, the Master Tenant at 106 Crespi Drive, said that the tenants were basing their appeal on the cases decided at the July 10<sup>th</sup> Board meeting. Mr. Norrington alleged fraud on the part of Parkmerced in two ways: that the extraordinary insurance charges are illegal; and that a second O&M increase within five years is prohibited. Mr. Norrington believes that the transfer of the property was a "wash sale", purely to obtain a second O&M passthrough, because the personnel are the same and "nothing has changed."

#### V. Consideration of Appeals

A. 15 Hermann St. #206

AT070179

The tenant's appeal was filed one day late because the tenant alleges that she was confused because her last name was incorrect on the Proof of Service.

MSC: To find good cause for the late filing of the appeal.  
(Becker/Mosbrucker: 4-0)

The landlord's petition for approval of utility passthroughs for 30 of 62 units was granted. One tenant appeals the decision, claiming improper service and the fact that there was a broken window in the building that required the tenant in that unit to keep the heat on all day.

MSC: To deny the appeal. (Hurley/Gruber: 4-0)

B. 2935 Fillmore St.

AL070177

The tenants' petition alleging decreased housing services and unlawful rent increases was granted, in part and the Administrative Law Judge found the





landlords liable to the tenants in the amount of \$174.75 for decreased housing services and for any sums paid in excess of the base rent of \$1,900.00. The landlords failed to appear at the hearing and submit a Declaration of Non-Receipt of Notice of Hearing with their appeal.

MSC: To accept the appeal and remand the case for a new hearing.  
(Becker/Mosbrucker: 4-0)

C. 8 Carl St.

AT070171

The landlord's petition seeking approval of utility passthroughs for 3 of 7 units was granted. One tenant appeals the decision, claiming that the 2002 base year should not apply to him, since his tenancy was established pursuant to a mediated agreement in 2006.

This appeal was withdrawn prior to the meeting.

D. 1606 – 18<sup>th</sup> Ave.

AL070170

The tenant's petition alleging unlawful rent increases was granted and the landlord was found liable to the tenant in the amount of \$16,400.00. On appeal, the landlord claims that: the tenant moved out of the family home when he became an adult, and moved back in unbeknownst to the landlord; the landlord only became aware of the tenant's presence on the premises shortly before the death of his mother, the original tenant; and the landlord failed to appear at the hearing because his attorney improperly assumed that the tenant would withdraw the petition upon the dismissal of an unlawful detainer that the landlord had filed against the tenant.

MSC: To deny the appeal. (Becker/Mosbrucker: 3-1)

E. 1062 – 1066 Florida

AT070172

The tenant's petition alleging decreased housing services due to construction and printing press noise and environmental and respiratory hazards was denied. On appeal, the tenant claims that he provided documentary evidence sufficient to prove his claims and the printing press was not the issue that was important to the tenant.

MSC: To deny the appeal. (Mosbrucker/Gruber: 4-0)

F. Parkmerced:



The landlord's petition for rent increases based on increased operating expenses for 1,633 of 3,287 units was granted, in part. The appeals of the tenants in 19 units were considered at the Board meeting on July 10<sup>th</sup>. Four additional tenants untimely appeal the decision as follows below.

566 Arballo Dr.

AT070173

MSC: To recuse Commissioner Becker from consideration of all of the appeals involving Parkmerced. (Mosbrucker/Gruber: 4-0)

The tenant's appeal was filed approximately 3 months late because the tenant submitted her application to the management at Parkmerced prior to coming to the Rent Board, but was denied.

MSC: To find good cause for the late filing of the appeal.  
(Mosbrucker/Henderson: 4-0)

The tenants appeal the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenants' claim of financial hardship.  
(Mosbrucker/Henderson: 4-0)

126 Garces Dr.

AT070176

The tenant's appeal was filed approximately three months late because the tenant believed that the issues had been adjudicated, only to find out that the issues were still being litigated.

MSC: To find no good cause for the late filing of the appeal. The Decision is therefore final. (Gruber/Murphy: 3-1; Henderson dissenting)

55 Chumasero Dr. 12-C

AT070174

The tenant's appeal was filed approximately three months late because the tenant is not a native English speaker and thought that the other tenants' appeals would apply to her as well.

MSC: To find good cause for the late filing of the appeal.  
(Mosbrucker/Henderson: 4-0)



The tenant appeals the decision on the grounds that the new landlord should not be entitled to rent increases based on the old landlord's expenses and that the landlord's insurance and other expenses in the petition were exaggerated.

MSC: To accept the appeal and remand the case to the Administrative Law Judge with instructions to find that Ordinance §37.8(b)(1)(A) does not permit this increase to take effect until five years from the date that the O&M 1 increase was imposed and to disallow consideration of insurance expenses.  
(Mosbrucker/Henderson: 4-0)

106 Crespi Dr.

AT070175

The tenant's appeal was filed approximately three months late because the tenant claims that the landlord fraudulently misrepresented their entitlement to the rent increases.

MSC: To find no good cause for the late filing of the appeal. The Decision is therefore final. (Murphy/Gruber: 3-1; Henderson dissenting)

H. 115 Haight St., Apt. #5

AT070178

The tenant's petition alleging decreased housing services due to a faulty radiator and mold/mildew problem was denied because the ALJ found that the landlord had remedied the problems shortly after receiving notice from the tenant. On appeal, the tenant claims that: the landlord was allowed to treat her disrespectfully at the hearing; she orally requested that the resident manager make repairs to the radiator; the mold in her unit was not removed properly; and the landlord has not followed through on representations that the situation would be monitored.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a new hearing only on the issue of whether there was notice to the landlord regarding the mildew problem after February 2006 and, if so, whether the condition constituted a substantial decrease in housing services. (Murphy/Becker: 4-0)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:



A. A copy of Ordinance #200-07, which takes effect on September 9, 2007, and requires landlords to re-key or replace door locks when all tenants vacate a rental unit.

B. A Pending Litigation Status Report from Senior Administrative Law Judge Tim Lee.

C. An article from U.S.A. Today regarding the increase in rents due to the current "credit crunch" in the mortgage markets.

IV. Remarks from the Public (cont.)

F. Attorney Karen Uchiyama asked questions regarding the denial of the landlord's appeal, specifically, if the failure of the landlord to appear was due to attorney error, whether it was akin to a default judgment in Superior Court, or if there was a decision on the merits.

G. One of the tenants at 106 Crespi Drive expressed concern because Tenant Commissioner Becker recused himself from consideration of the Parkmerced appeals, whereas Landlord Commissioner Murphy did not, and he knows the representative for Parkmerced, Burt Pollacci.

H. The tenant in the case at 115 Haight Street #5 (AT070178) told the Board that she told management there were leaks in the closet, but they didn't do anything. She said that the problem wasn't just with the window, but the closet as well.

VII. Calendar Items

September 11<sup>th</sup>, 18<sup>th</sup> and 25<sup>th</sup>, 2007 - NO MEETINGS

October 2, 2007

7 appeal considerations

VIII. Adjournment

President Gruber adjourned the meeting at 7:00 p.m.







DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

Residential Rent Stabilization  
and Arbitration Board

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, 6:00 p.m.,  
October 2, 2007  
25 Van Ness Avenue, #70, Lower Level

AGENDA

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

POLLY MARSHALL

CATHY MOSBRUCKER

NEVEO MOSSER

BARTHOLOMEW MURPHY

I. Call to Order

09-28-07A10:50 R/V5

II. Roll Call

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III. Approval of the Minutes

SEP 28 2007

IV. Remarks from the Public

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V. Consideration of Appeals

A. 21 Castelo

AT070181

One tenant appeals the decision granting rent increases based on increased operating expenses on the grounds of financial hardship.

B. 510 Haight St.

AL070180

The landlord appeals the decision granting a claim of decreased housing services.

C. 2375 - 16<sup>th</sup> Ave., Upper

AL070182

The landlords appeal the decision granting a claim of decreased housing services.

D. 15 Rotteck St.

AL070185

The landlord appeals the decision granting a claim of unlawful rent increase.

E. 1427 - 19<sup>th</sup> Ave.

AL070183



The landlords appeal the decision granting claims of decreased housing services and unlawful rent increase.

F. 1534 & 1536 – 15<sup>th</sup> St.

AT070186 & -87

Two tenants appeal the decision certifying capital improvement costs.

G. 3487 – 21<sup>st</sup> St. #2

AL070184

The landlord appeals the decision finding that the tenant is a "Tenant in Occupancy" pursuant to Rules §1.21.

- VI. Communications
- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)

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- IX. New Business
- X. Calendar Items
- XI. Adjournment





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GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, October 2, 2007 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

I. Call to Order

President Gruber called the meeting to order at 6:07 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;  
Justman; Mosbrucker; Mosser; Murphy.  
Staff Present: Gartzman; Wolf.

Commissioner Marshall appeared on the record at 6:11 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 4, 2007,  
(Mosbrucker/Murphy: 5-0)

IV. Remarks from the Public

A. Diane Eisenberg, the tenant at 3487 – 21<sup>st</sup> St. #2 (AL070184), told the Board that the landlord's untimely appeal should not be accepted because the landlord was represented by counsel during the entirety of the proceedings, and was in town and able to communicate with his lawyer. Ms. Eisenberg said that the hearing took over seven hours and there was voluminous documentary evidence. Since the record is "comprehensive and clear," Ms. Eisenberg asked that the Board uphold the Administrative Law Judge's decision.

V. Consideration of Appeals

A. 21 Castelo

AT070181

The tenant's appeal was filed approximately four months late because the tenant was mugged, resulting in a concussion, and she is also elderly.

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The tenant's appeal was filed approximately four months late because the tenant was mugged, resulting in a concussion, and she is also elderly.

MSC: To recuse Commissioner Becker from consideration of this appeal. (Henderson/Mosbrucker: 5-0)

MSC: To find good cause for the late filing of the appeal. (Murphy/Henderson: 4-1; Mosbrucker dissenting)

The landlord's petition for rent increases based on increased operating expenses for 1,633 of 3,287 units was granted, in part. The appeals of the tenants in 19 units were considered at the Board meeting on July 10<sup>th</sup>. The untimely appeals of four additional tenants were considered at the September 4<sup>th</sup> Board meeting. One additional tenant appeals the decision on the grounds that the insurance costs in the landlord's petition were exaggerated.

MSC: To accept the appeal and remand the case to the Administrative Law Judge with instructions to disallow consideration of insurance expenses. (Marshall/Murphy: 5-0)

B. 510 Haight St.

AL070180

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$13,350.00 due to serious habitability problems on the premises. The landlord appeals, asserting that the parties entered into a settlement in San Francisco Superior Court and that the tenant was not an authorized occupant of the unit prior to the date of the settlement agreement.

MSC: To deny the appeal but remand the case to the Administrative Law Judge to determine an equitable allocation of the rent reductions to the occupants who lived in the unit at the time the services were decreased; a hearing will be held only if necessary. (Becker/Marshall: 5-0)

C. 2375 – 16<sup>th</sup> Ave., Upper

AL070182

The tenants' petition alleging decreased housing services was granted, in part, and the landlords were found liable to the tenants in the amount of \$2,761.90. On appeal, the landlords claim that: they did not receive notice of the problem with the bathroom sink until they received a copy of the tenants' petition; there is no justification for the rent reduction for the leaking sink going back one year prior to the date the petition was filed; the Decision mistakenly attributes remarks to the landlords that they did not make at the hearing; the parties' oral tenancy



agreement allowed for a rent increase should the cost of utilities go up; the original check tendered by the tenants was a deposit, and not rent; the ALJ exhibited bias on behalf of the tenants; and the tenants rented an additional room when their son came to live with them.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

D. 15 Rotteck St.

AL070185

The tenant's petition alleging an unlawful rent increase was granted and the landlord was found liable to the tenant in the amount of \$2,975.00. On appeal, the landlord maintains that she asked the tenant to move to a larger room in the unit because she could not abate a mold problem in his former room, and that he agreed to pay a higher rent.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

E. 1427 – 19<sup>th</sup> Ave.

AL070183

The tenant's petition alleging decreased housing services and an unlawful rent increase was granted and the landlords were found liable to the tenant in the amount of \$257.00 for rent overpayments and \$133.25 due to the loss of use of the dining room. On appeal, the landlords claim that: the tenant failed to pay rent for the month of March 2006; they did not receive a copy of the tenant's submissions, as stated in the Decision; the landlords have already paid the tenant \$68.00 towards rent overpayments; the tenants never used the dining room for that purpose nor did the tenant have access to that room, so there has been no reduction in services; and the tenant unilaterally expanded the housing services he is entitled to.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

F. 1534 & 1536 – 15<sup>th</sup> St.

AT070186 & -87

The landlord's petition for certification of capital improvement costs for two units was granted, in part. The tenants appeal the Decision, claiming that: objections and photographic evidence submitted by the tenants were not considered by the ALJ; the work constituted "emergency repair," rather than capital improvement; replacement of the water heater should be considered routine repair and maintenance, since a water heater is properly considered an appliance; had the landlord conducted annual inspections of the roof and not deferred necessary maintenance, replacement would not have been necessary; the painting and patchwork which was not certified was done by the landlord himself and is substandard; and there are many code violations on the property.



G. 3487 – 21<sup>st</sup> St. #2

AL070184

The landlord's appeal was filed three days late because he has been out of town caring for an ill parent.

MSC: To find good cause for the late filing of the appeal.  
(Murphy/Gruber: 3-2; Becker, Marshall dissenting)

The landlord's petition seeking a determination pursuant to Rules §1.21 was denied because the ALJ found that the subject unit is the tenant's principal place of residence. On appeal, the landlord argues that: the tenant claimed a homeowner's exemption on a single family dwelling in Michigan; there are many indices of residency that tie the tenant to the Michigan premises; and the tenants have used their San Francisco residence as a pied a terre for several years while they worked as law professors in Michigan.

MSC: To deny the appeal. (Marshall/Becker: 3-2; Murphy, Gruber dissenting)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

- A. A copy of the Agency's Annual Statistical Report for Fiscal Year 2006-07.
- B. A letter from Philip Page, Director of the Golden Gateway Tenants' Association, suggesting an alternative method for the calculation of utility passthroughs.
- C. Several articles regarding the recent increase in rents, both locally and nationally.
- D. An article on proposed Statewide legislation requiring individual mailboxes in single room occupancy hotels.
- E. A letter from Michelle Horneff-Cohen of Property Management Systems requesting that the Board discontinue the practice of accepting new evidence upon appeal.
- F. The case of Lincoln Place Tenants Association v. City of Los Angeles (Superior Court No. BS10356), affirming the City's power to regulate the demolition



and redevelopment of residential property notwithstanding an owner's filing of a Notice of Intent to withdraw rental units from the market under the Ellis Act.

G. The office workload statistics for the months of July and August 2007.

VII. Director's Report

Executive Director Wolf reported that members of the counseling staff have been involved in various recent outreach opportunities: Rod Wong and Ruben Urriaga attended the Immigrant Rights Summit; Greg Miller and Alyse Ceirante staffed a booth at the S.F. Apartment Association Trade Show; Greg Miller and Roger Levin staffed the AIDS Housing Fair and the D.A.'s Legal and Community Resource Fair; and Alyse Ceirante and Roger Levin will represent the Agency at the Family Fair on October 13<sup>th</sup>. Ms. Wolf also told the Board that the Committee that makes suggestions to the Board regarding possible amendments to the SRO Hotel Visitor Policy had a very productive meeting on September 25<sup>th</sup> with the assistance of Commissioners Gruber and Becker.

IV. Remarks from the Public (cont.)

B. Landlord Paula Chen of 15 Rotteck St. (AL070185) told the Board that the tenant does have his own bathroom, and that his mother gave permission for him to move to the upstairs unit. Ms. Chen said that the tenant occupies two rooms, has lived in the building for three years without a rent increase and pays only \$375.00 in rent.

VIII. Calendar Items

October 9<sup>th</sup> & 16<sup>th</sup>, 2007 - NO MEETINGS

October 23, 2007

3 appeal considerations

**6:30** Public Hearing: SRO Hotel Visitor Policy

XI. Adjournment

President Gruber adjourned the meeting at 7:25 p.m.







DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY||

**AMENDED MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

Tuesday, October 2, 2007 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

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OCT 16 2007

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I. Call to Order

President Gruber called the meeting to order at 6:07 p.m.

II. Roll Call

Commissioners Present: Becker; Gruber; Henderson; Hurley;  
Justman; Mosbrucker; Mosser; Murphy.  
Staff Present: Gartzman; Wolf.

Commissioner Marshall appeared on the record at 6:11 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of September 4, 2007,  
(Mosbrucker/Murphy: 5-0)

IV. Remarks from the Public

A. Diane Eisenberg, the tenant at 3487 – 21<sup>st</sup> St. #2 (AL070184), told the Board that the landlord's untimely appeal should not be accepted because the landlord was represented by counsel during the entirety of the proceedings, and was in town and able to communicate with his lawyer. Ms. Eisenberg said that the hearing took over seven hours and there was voluminous documentary evidence. Since the record is "comprehensive and clear," Ms. Eisenberg asked that the Board uphold the Administrative Law Judge's decision.

V. Consideration of Appeals

A. 21 Castelo

AT070181

The tenant's appeal was filed approximately four months late because the tenant was mugged, resulting in a concussion, and she is also elderly.



MSC: To recuse Commissioner Becker from consideration of this appeal. (Henderson/Mosbrucker: 5-0)

MSC: To find good cause for the late filing of the appeal.  
(Murphy/Henderson: 4-1; Mosbrucker dissenting)

The landlord's petition for rent increases based on increased operating expenses for 1,633 of 3,287 units was granted, in part. The appeals of the tenants in 19 units were considered at the Board meeting on July 10<sup>th</sup>. The untimely appeals of four additional tenants were considered at the September 4<sup>th</sup> Board meeting. One additional tenant appeals the decision on the grounds that the insurance costs in the landlord's petition were exaggerated.

MSC: To accept the appeal and remand the case to the Administrative Law Judge with instructions to disallow consideration of insurance expenses. (Marshall/Murphy: 5-0)

B. 510 Haight St.

AL070180

The tenant's petition alleging decreased housing services was granted and the landlord was found liable to the tenant in the amount of \$13,350.00 due to serious habitability problems on the premises. The landlord appeals, asserting that the parties entered into a settlement in San Francisco Superior Court and that the tenant was not an authorized occupant of the unit prior to the date of the settlement agreement.

MSC: To deny the appeal but remand the case to the Administrative Law Judge to determine an equitable allocation of the rent reductions to the occupants who lived in the unit at the time the services were decreased; a hearing will be held only if necessary. (Becker/Marshall: 5-0)

C. 2375 – 16<sup>th</sup> Ave., Upper

AL070182

The tenants' petition alleging decreased housing services was granted, in part, and the landlords were found liable to the tenants in the amount of \$2,761.90. On appeal, the landlords claim that: they did not receive notice of the problem with the bathroom sink until they received a copy of the tenants' petition; there is no justification for the rent reduction for the leaking sink going back one year prior to the date the petition was filed; the Decision mistakenly attributes remarks to the landlords that they did not make at the hearing; the parties' oral tenancy agreement allowed for a rent increase should the cost of utilities go up; the original check tendered by the tenants was a deposit, and not rent; the ALJ



exhibited bias on behalf of the tenants; and the tenants rented an additional room when their son came to live with them.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

D. 15 Rotteck St.

AL070185

The tenant's petition alleging an unlawful rent increase was granted and the landlord was found liable to the tenant in the amount of \$2,975.00. On appeal, the landlord maintains that she asked the tenant to move to a larger room in the unit because she could not abate a mold problem in his former room, and that he agreed to pay a higher rent.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

E. 1427 – 19<sup>th</sup> Ave.

AL070183

The tenant's petition alleging decreased housing services and an unlawful rent increase was granted and the landlords were found liable to the tenant in the amount of \$257.00 for rent overpayments and \$133.25 due to the loss of use of the dining room. On appeal, the landlords claim that: the tenant failed to pay rent for the month of March 2006; they did not receive a copy of the tenant's submissions, as stated in the Decision; the landlords have already paid the tenant \$68.00 towards rent overpayments; the tenants never used the dining room for that purpose nor did the tenant have access to that room, so there has been no reduction in services; and the tenant unilaterally expanded the housing services he is entitled to.

MSC: To deny the appeal. (Becker/Marshall: 5-0)

F. 1534 & 1536 – 15<sup>th</sup> St.

AT070186 & -87

The landlord's petition for certification of capital improvement costs for two units was granted, in part. The tenants appeal the Decision, claiming that: objections and photographic evidence submitted by the tenants were not considered by the ALJ; the work constituted "emergency repair," rather than capital improvement; replacement of the water heater should be considered routine repair and maintenance, since a water heater is properly considered an appliance; had the landlord conducted annual inspections of the roof and not deferred necessary maintenance, replacement would not have been necessary; the painting and patchwork which was not certified was done by the landlord himself and is substandard; and there are many code violations on the property.

MSC: To deny the appeal. (Murphy/Gruber: 5-0)



G. 3487 – 21<sup>st</sup> St. #2

AL070184

The landlord's appeal was filed three days late because he has been out of town caring for an ill parent.

MSC: To find good cause for the late filing of the appeal.  
(Murphy/Gruber: 3-2; Becker, Marshall dissenting)

The landlord's petition seeking a determination pursuant to Rules §1.21 was denied because the ALJ found that the subject unit is the tenant's principal place of residence. On appeal, the landlord argues that: the tenant claimed a homeowner's exemption on a single family dwelling in Michigan; there are many indices of residency that tie the tenant to the Michigan premises; and the tenants have used their San Francisco residence as a pied a terre for several years while they worked as law professors in Michigan.

MSC: To deny the appeal. (Marshall/Becker: 3-2; Murphy, Gruber dissenting)

#### VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. A copy of the Agency's Annual Statistical Report for Fiscal Year 2006-07.

B. A letter from Philip Page, Director of the Golden Gateway Tenants' Association, suggesting an alternative method for the calculation of utility passthroughs.

C. Several articles regarding the recent increase in rents, both locally and nationally.

D. An article on proposed Statewide legislation requiring individual mailboxes in single room occupancy hotels.

E. A letter from Michelle Horneff-Cohen of Property Management Systems requesting that the Board discontinue the practice of accepting new evidence upon appeal.

F. The case of Lincoln Place Tenants Association v. City of Los Angeles (Superior Court No. BS10356), affirming the City's power to regulate the demolition





and redevelopment of residential property notwithstanding an owner's filing of a Notice of Intent to withdraw rental units from the market under the Ellis Act.

G. The office workload statistics for the months of July and August 2007.

VII. Director's Report

Executive Director Wolf reported that members of the counseling staff have been involved in various recent outreach opportunities: Rod Wong and Ruben Urriaga attended the Immigrant Rights Summit; Greg Miller and Alyse Ceirante staffed a booth at the S.F. Apartment Association Trade Show; Greg Miller and Roger Levin staffed the AIDS Housing Fair and the D.A.'s Legal and Community Resource Fair; and Alyse Ceirante and Roger Levin will represent the Agency at the Family Fair on October 13<sup>th</sup>. Ms. Wolf also told the Board that the Committee that makes suggestions to the Board regarding possible amendments to the SRO Hotel Visitor Policy had a very productive meeting on September 25<sup>th</sup> with the assistance of Commissioners Gruber and Becker.

IV. Remarks from the Public (cont.)

B. Landlord Paula Chen of 15 Rotteck St. (AL070185) told the Board that the tenant does have his own bathroom, and that his mother gave permission for him to move to the upstairs unit. Ms. Chen said that the tenant occupies two rooms, has lived in the building for three years without a rent increase and pays only \$375.00 in rent.

VIII. Calendar Items

October 9<sup>th</sup> & 16<sup>th</sup>, 2007 - NO MEETINGS

October 23, 2007

3 appeal considerations

**6:30** Public Hearing: SRO Hotel Visitor Policy

XI. Adjournment

President Gruber adjourned the meeting at 7:25 p.m.





## ACCESSIBLE MEETING POLICY

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會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

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There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

## Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

## Know Your Rights Under the Sunshine Ordinance

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

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**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
October 23, 2007

25 Van Ness Avenue, #70, Lower Level

**AGENDA**

10-16-07 10:47 AM DEVD

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CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order  
II. Roll Call  
III. Approval of the Minutes  
IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

- V. Consideration of Appeals

A. 14 Fuente

AT070190

The tenant appeals the decision granting rent increases based on increased operating expenses on the grounds of financial hardship.

B. 7A Gonzelez Dr.

AT070189

The tenant appeals the decision granting rent increases based on increased operating expenses on the grounds of financial hardship.

C. 776 Bush St. #103

AL070188

The Master Tenant appeals the decision finding that the subtenant is not paying a disproportional share of the rent but granting a claim of decreased housing services.

- VI. Public Hearing

6:30 SRO Hotel Visitor Policy

- VII. Communications



VIII. Director's Report

IX. Old Business

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

X. New Business

XI. Calendar Items

XII. Adjournment







## ACCESSIBLE MEETING POLICY

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October 10, 2007

**NOTICE OF PUBLIC HEARING**

<b>DATE:</b>	October 23, 2007
<b>TIME:</b>	6:30 P.M.
<b>PLACE:</b>	25 VAN NESS AVENUE (AT MARKET ST.) ROOM #70, LOWER LEVEL SAN FRANCISCO, CALIFORNIA

52  
1  
10/23/07  
Public  
hearing  
notice  
c. 2

THE RENT BOARD COMMISSIONERS INVITE THE PUBLIC TO COMMENT ON IMPLEMENTATION OF THE UNIFORM VISITOR POLICY PURSUANT TO SECTION 41D.6 OF THE ADMINISTRATIVE CODE. A COMMITTEE WAS CONVENED ON SEPTEMBER 25<sup>TH</sup> TO ADDRESS POTENTIAL IMPLEMENTATION ISSUES. THE MAJOR SUGGESTIONS OF THAT COMMITTEE WERE: TO MAKE CLEAR THAT THE VISITOR NEED NOT BE PRESENT AT THE TIME THE REQUEST FOR AN OVERNIGHT GUEST IS MADE; THE NAME OF THE VISITOR DOES NOT NEED TO BE PROVIDED UNTIL THE VISITOR ARRIVES AT THE HOTEL; AND THE VISITOR SHALL HAVE THE SAME IN AND OUT PRIVILEGES AS THE RESIDENT AFTER ARRIVAL.

INTERESTED PARTIES ARE INVITED TO COMMENT ON THE CURRENT POLICY, LAST AMENDED JULY 11, 2006, AND/OR TO PROPOSE ANY AMENDMENTS TO THE POLICY THAT WOULD HELP EFFECTUATE THE GOALS AND REQUIREMENTS OF THIS CHAPTER. SPEAKERS WILL HAVE THREE (3) MINUTES EACH TO COMMENT ON THE POLICY. WRITTEN COMMENTS MAY ALSO BE SUBMITTED AT THE TIME OF OR PRIOR TO THE PUBLIC HEARING.

COPIES OF THE PROPOSED POLICY CAN BE OBTAINED AT THE RENT BOARD OFFICE, 25 VAN NESS, SUITE 320, OR ON THE RENT BOARD WEB SITE ([www.sfgov.org/rentboard](http://www.sfgov.org/rentboard)) UNDER 'NEWS AND ARCHIVES, 2007.'

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DAVID GRUBER  
PRESIDENT

**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

LARRY BEACH BECKER  
VICE-PRESIDENT

Tuesday, October 23, 2007 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

**I. Call to Order**

President Gruber called the meeting to order at 6:10 p.m.

**Roll Call**

Commissioners Present: Gruber; Henderson; Hurley; Mosbrucker.  
Commissioners not Present: Becker; Justman; Marshall; Mosser.  
Staff Present: Lee; Wolf.

Commissioner Murphy appeared on the record at 6:13 p.m.

**III. Approval of the Minutes**

MSC: To approve the Minutes of October 2, 2007.  
(Hurley/Mosbrucker: 4-0)

**IV. Consideration of Appeals**

A. 14 Fuente

AT070190

The tenant's appeal was filed four and one-half months late because he was under the impression that an appeal that had been filed was on behalf of all of the residents of his block.

MSC: To find good cause for the late filing of the appeal.  
(Mosbrucker/Henderson: 4-0)

The landlord's petition for rent increases based on increased operating expenses in this multi-unit complex was granted. The tenant appeals the decision on the grounds of financial hardship.

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MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship.  
(Henderson/Mosbrucker: 4-0)

B. 7A Gonzalez Dr.

AT070189

The tenant's appeal was filed almost five months late because the tenant misunderstood the filing deadline for hardship appeals, after the denial of her substantive appeal.

MSC: To find good cause for the late filing of the appeal.  
(Henderson/Mosbrucker: 4-0)

The landlord's petition for rent increases based on increased operating expenses in this multi-unit complex was granted. The tenant appeals the decision on the grounds of financial hardship, asking to pay retroactive amounts owed in three monthly installments.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship.  
(Mosbrucker/Henderson: 4-0)

C. 776 Bush St. #103

AL070188

The subtenant filed a petition seeking a determination of the proper base rent and alleging a substantial decrease in housing services. The Administrative Law Judge (ALJ) found that the subtenant was not paying a disproportional share of the rent under Rules §6.15C(3) because the Master Tenant, the resident manager of the building, did not pay rent. However, a rent reduction in the amount of \$40.00 per month was granted due to the loss of weekly cleaning services. The Master Tenant appeals, claiming that the decision is in error as to the date the professional cleaning service terminated and he now cleans the unit himself.

MSC: To accept the appeal and remand the case to the Administrative Law Judge for a hearing on the issue of the loss of weekly cleaning services. (Murphy/Gruber: 4-0)

#### V. Public Hearing

##### SRO Hotel Visitor Policy

The Board convened a Public Hearing from 6:35 to 6:42 p.m. on proposed amendments to the SRO Hotel Visitor Policy. Although there were members of





the public in attendance, no one wished to address the Commissioners. After a brief discussion, the Board passed the below motion:

MSC: To adopt the proposed amendments to the SRO Hotel Visitor Policy. (Henderson/Murphy: 4-0)

The amended sections of the Policy read as follows below (new language underlined):

4. Requests for overnight guests shall be made no later than 9:00 p.m. on the same day. The visitor does not have to be present at the time the request is made and the visitor's name need not be provided until the visitor arrives at the hotel, after which time the visitor shall have the same in and out privileges as the resident.

A. Owners or operators are entitled to request that visitors provide produce identification as follows:

VI. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. An interview with Executive Director Delene Wolf in the October 2007 S.F. Apartment Magazine.

B. Articles from the S.F. Examiner and BeyondChron.

C. An invitation to the Mayor's State of the City address.

D. The office workload statistics for the month of September 2007.

E. 2007 Combined Charities Campaign contribution forms.

VII. Director's Report

Senior Administrative Law Judge Tim Lee informed the Board that the Small Property Owners' Group has dropped its legal challenge to Proposition G. Executive Director Delene Wolf let the Commissioners know that Commissioner Mosser's father had died, and all expressed their condolences.

VIII. Calendar Items

October 30<sup>th</sup> & November 6<sup>th</sup>, 2007 - NO MEETINGS



November 13, 2007

4 appeal considerations

IX. Adjournment

President Gruber adjourned the meeting at 6:40 p.m.





**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
November 13, 2007  
25 Van Ness Avenue, #70, Lower Level

**AGENDA**

11-02-07P11:20 RCVD

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CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

- I. Call to Order
- II. Roll Call
- III. Approval of the Minutes
- IV. Remarks from the Public
- V. Consideration of Appeals

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

A. 2502 Cabrillo

AL070191

The landlord appeals the decision determining that the tenant is a "Tenant in Occupancy" pursuant to Rules §1.21.

B. 891-893 Greenwich #891

AT070192

The subtenant appeals the decision finding that she paid a proportionate share of the rent pursuant to Rules §6.15C(3).

C. 2710 Baker St. #5

AL070193

The landlord appeals the decision finding that a rent increase was not justified by either Rules §1.21 or Costa-Hawkins.

D. 4001-4011 - 24<sup>th</sup> St.

AL070194

The landlord appeals the decision only partially granting rent increases based on increased operating expenses.

- VI. Communications



- VII. Director's Report
- VIII. Old Business
- IV. Remarks from the Public (cont.)

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**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

- IX. New Business
- X. Calendar Items
- XI. Adjournment







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DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

**MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

Tuesday, November 13, 2007 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

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I. Call to Order

President Gruber called the meeting to order at 6:10 p.m.

II. Roll Call

Commissioners Present: Gruber; Henderson; Hurley; Mosbrucker;  
Mosser.

Commissioners not Present: Becker; Murphy.

Staff Present: Gartzman; Wolf.

Commissioner Marshall appeared on the record at 6:15 p.m.; Commissioner  
Justman arrived at the meeting at 6:25 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of October 23, 2007.  
(Henderson/Hurley: 4-0)

IV. Consideration of Appeals

A. 2502 Cabrillo

AL070191

The landlord's petition for a determination pursuant to Rules §1.21 was denied because the Administrative Law Judge found that the subject unit is the tenant's principal place of residence, and that she is only temporarily residing at a residential care facility. On appeal, the landlord maintains that: the tenant's mail does not go to the subject unit but, rather, is delivered to her conservator; the tenant is physically able to return to the unit with in-home care but has failed to do so, although she can afford to; and the apartment is no longer the tenant's usual place of return, since she has chosen to relocate to an assisted living facility, rather than returning to the unit.



MSC: To continue consideration of this appeal to the March 4, 2008 meeting. No later than one week prior to that time, the parties shall submit evidence to the Board and the opposing party that the tenant has returned to the unit or, if not, why not; or evidence of any efforts the tenant has made to effectuate her intent to return. (Justman/Mosbrucker: 5-0)

B. 891-893 Greenwich #891

AT070192

The subtenant's petition alleging that she paid a disproportional share of the rent pursuant to Rules §6.15C(3) was denied. On appeal, the subtenant claims that: the Master Tenant misrepresented the total amount of rent he paid to the landlord, and the subtenant relied on that misrepresentation when she agreed to pay her share of the rent; and, since the Master Tenant engaged in fraud, he should not be allowed to utilize the alternative rent-sharing methodologies outlined in Rules §6.15C(3).

MSC: To deny the appeal. (Hurley/Henderson: 5-0)

C. 2710 Baker St. #5

AL070193

The landlord's petition for a determination pursuant to Rules Sections 1.21 and 6.14 and Costa-Hawkins was denied because the Administrative Law Judge determined that an original tenant still permanently resided at the subject unit, although it was not his principal place of residence. On appeal, the landlord argues that: the standard for "principal place of residence" under Rules Section 1.21 and "permanently resides" under Costa-Hawkins should be the same or Costa-Hawkins has no meaning and fails to accomplish its legislative intent; Rules Section 1.21 is being applied differently to landlords where there are subtenants who moved in to the unit prior to January 1, 1996 and to those where there are no such subtenants in place; and the intent of Rules Section 6.14 is also subverted by the decision.

MSC: To deny the appeal. (Marshall/Henderson: 3-2; Gruber, Hurley dissenting)

D. 4001-4011 – 24<sup>th</sup> St.

AL070194

The landlord's petition for rent increases to 3 of 8 units was granted, in part. The landlord appeals, claiming that: the Administrative Law Judge erred in finding that only 11 months of garbage bills were submitted; and the formula used by the landlord to divide the expenses between the commercial and residential units is fair and equitable.



MSC: To accept the appeal and remand the case to the Administrative Law Judge on the record. (Mosbrucker/Hurley: 4-0)

V. Communications

In addition to correspondence concerning cases on the calendar, the Commissioners received the following communications:

A. An article from BeyondChron regarding an Initiative headed toward the June ballot, which would ban rent control.

B. The office workload statistics for the month of October 2007.

C. A new staff roster.

VI. Director's Report

Executive Director Wolf informed the Board that Attorney Brooks Beard has been appointed to the vacant Alternate Neutral seat by the Mayor, but has not yet been sworn in. The staff holiday party will be at Don Ramon's restaurant at noon on December 13<sup>th</sup>; the Commissioners' Holiday Dinner will take place at Indigo Restaurant after the Board meeting on December 11<sup>th</sup>.

VII. Remarks from the Public

Attorney Brenda Cruz Keith, representing the landlord in the case at 2710 Baker St. #5 (AL070193), told the Board that they should have considered the tenant's status at the time the 1.21 petition was filed, so the fact that he moved back in to the unit later should have been irrelevant. Ms. Keith believes that it is difficult for landlords to meet their burden of proof in these cases, as they do not have the benefits of discovery.

VIII. Calendar Items

November 20<sup>th</sup> and 27<sup>th</sup> and December 4, 2007 - NO MEETINGS

December 11, 2007

8 appeal considerations

IX. Adjournment

President Gruber adjourned the meeting at 7:10 p.m.







**NOTICE OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,**

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

Tuesday, 6:00 p.m.,  
December 11, 2007  
25 Van Ness Avenue, #70, Lower Level

**AGENDA**

DEBORAH HENDERSON

JIM HURLEY

ANTHONY JUSTMAN

POLLY MARSHALL

CATHY MOSBRUCKER

NEVED MOSSE

BARTHOLOMEW MURPHY

I. Call to Order

II. Roll Call

III. Approval of the Minutes

IV. Remarks from the Public

NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.

V. Consideration of Appeals

A. 1350 Stockton #26

AT070203

The tenant appeals the dismissal of a hardship appeal due to her failure to appear at the remand hearing.

B. 570 O'Farrell #101

AT070199

The tenant appeals the decision approving utility passthroughs on the grounds of financial hardship.

C. 550 Battery #1418

AT070198

One tenant appeals the decision approving utility passthroughs.

D. 295 Graystone Terr. #1

AL070195

The landlord appeals the remand decision granting a claim of financial hardship.

E. 295 Graystone Terr. #1

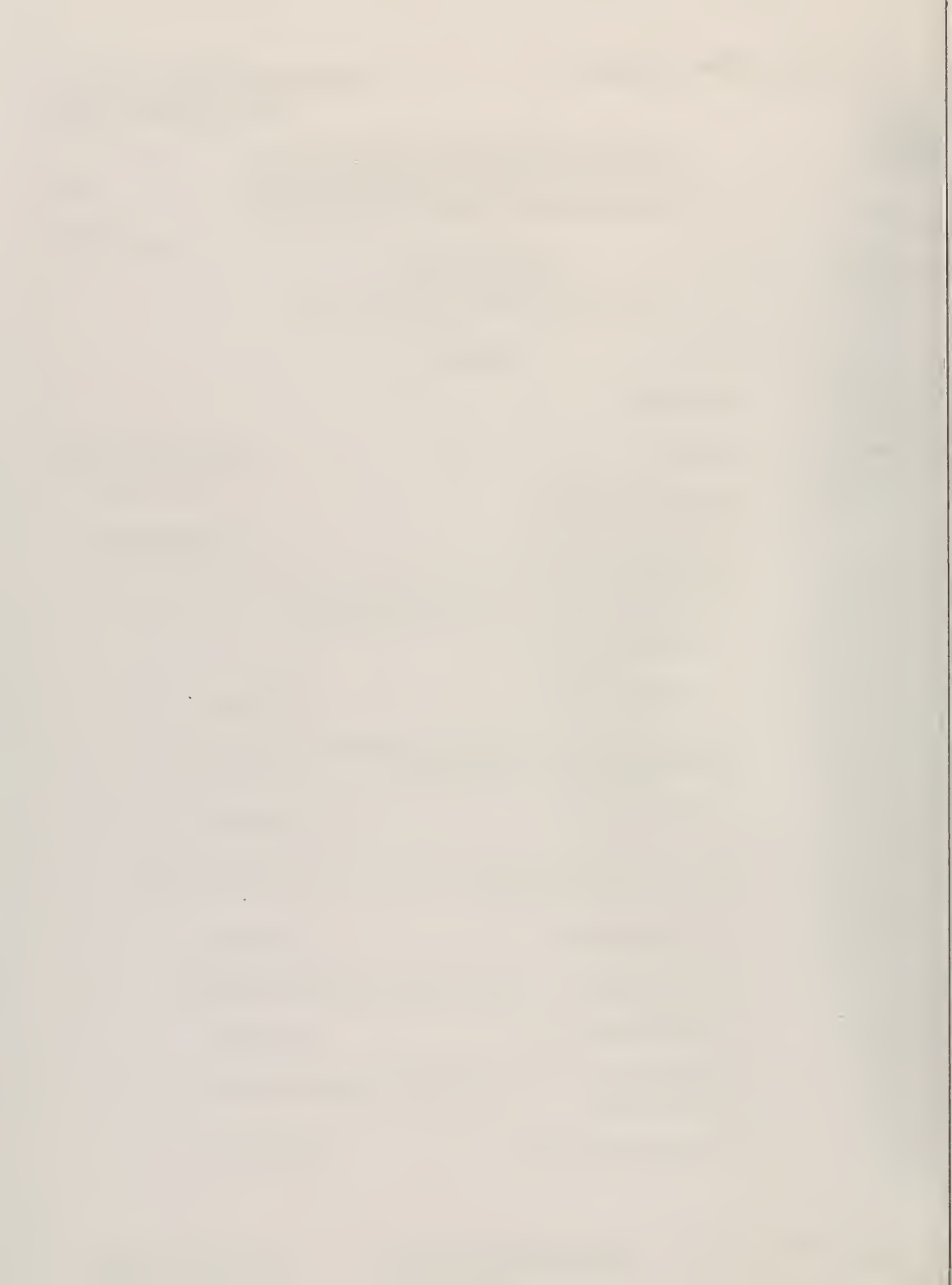
AT070202

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The tenant appeals the Minute Order certifying capital improvement costs on the grounds of financial hardship.

F. 373 Duncan St. #2

AL070197

The landlord appeals the remand decision granting a claim of unlawful rent increases.

G. 1435 Golden Gate Ave.

AL070196

The landlord appeals the decision granting a claim of decreased housing services.

H. 1111 Treat Ave.

AL070201

The landlords appeal the decision granting a claim of decreased housing services and determining rent overpayments.

VI. Communications

VII. Director's Report

VIII. Old Business

IV. Remarks from the Public (cont.)

**NOTE: Pursuant to Section 2.13(e) of the Rules and Regulations, members of the public shall be limited to comments of no more than 3 minutes' duration.**

IX. New Business

X. Calendar Items

XI. Adjournment





## **ACCESSIBLE MEETING POLICY**

American sign language interpreters will be available upon request. Please contact the Rent Board at 252-4603 at least 72 hours prior to the meeting. Translation services, sound enhancement or alternative formats are available if requested at least 72 hours prior to the meeting. Call 252-4603 to place your specific request. Late requests will be honored if possible.

會議提供翻譯服務，聲量增強器或其他信息安排，但必須在會議舉行七十二小時之前提出申請。申請電話號碼是 252-4603。

Se pueden obtener servicios de traduccion, ampliacion de sonida, u otras formas de pesentacion si se solicitan por lo menos 72 horas antes de la reunion. Llame al 252-4603 para hacer su solicitud.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

Rent Board Commission meetings are held at 25 Van Ness Avenue, Suite 70, lower level, and are wheelchair accessible. The closest accessible BART station is located at Civic Center. All MUNI Metro lines at Van Ness and Market Street are accessible. For other accessible MUNI lines serving this location and information about MUNI accessible services, call 923-6142.

There is accessible parking available on adjacent streets (Oak Street and Hickory). Metered street parking is also available.

## **Policy of Nondiscrimination on the Basis of Disability and Equal Employment Opportunity Statement**

The Rent Board does not discriminate on the basis of disability in employment or in the admission and access to its programs or activities.

Timothy Lee has been designated to coordinate this agency's compliance with the nondiscrimination requirements of Title II of the Americans with Disabilities Act (ADA). Information concerning the provisions of the ADA, and the rights provided under the Act, are available from the ADA Coordinator. The Rent Board TTY number is 554-9845.

## **Know Your Rights Under the Sunshine Ordinance**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review.

For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the Ordinance, contact the Sunshine Ordinance Task Force, 1 Dr. Carlton B. Goodlet Place, Room 244, San Francisco, CA 94102 at 554-7724.





DAVID GRUBER  
PRESIDENT

LARRY BEACH BECKER  
VICE-PRESIDENT

DEBORAH HENDERSON  
JIM HURLEY  
ANTHONY JUSTMAN  
POLLY MARSHALL  
CATHY MOSBRUCKER  
NEVEO MOSSER  
BARTHOLOMEW MURPHY

MINUTES OF THE REGULAR MEETING OF  
THE SAN FRANCISCO RESIDENTIAL RENT  
STABILIZATION & ARBITRATION BOARD,

Tuesday, December 11, 2007 at 6:00 p.m. at  
25 Van Ness Avenue, Suite 70, Lower Level

GAVIN NEWSOM  
MAYOR

DELENE WOLF  
EXECUTIVE DIRECTOR

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I. Call to Order

President Gruber called the meeting to order at 6:10 p.m.

II. Roll Call

Commissioners Present: Gruber; Henderson; Hurley; Justman;  
Mosbrucker; Mosser.  
Commissioners not Present: Murphy.  
Staff Present: Lee; Wolf.

Commissioner Marshall appeared on the record at 6:19 p.m.; Commissioner  
Becker arrived at the meeting at 7:00 p.m.

III. Approval of the Minutes

MSC: To approve the Minutes of November 13, 2007.  
(Mosbrucker/Hurley: 5-0)

IV. Consideration of Appeals

A. 1350 Stockton #26 AT070203

The tenant's hardship appeal of a decision approving a utility passthrough was  
accepted and remanded for hearing but the tenant failed to appear, so the appeal  
was dismissed. On further appeal, the tenant claims not to have received notice  
of the hearing and attaches the requisite Declaration of Non-Receipt of Notice of  
Hearing.

MSC: To accept the appeal and remand the case for a new hearing on  
the tenant's claim of financial hardship; should the tenant again  
fail to appear, absent extraordinary circumstances, no further  
hearings will be scheduled. (Henderson/Marshall: 5-0)





B. 570 O'Farrell #101

AT070199

The landlord's petition seeking approval of a utility passthrough to 14 of 38 units was granted. One tenant appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship.  
(Henderson/Hurley: 5-0)

C. 550 Battery #1418

AT070198

The tenant's appeal was filed one day late because he miscalculated the deadline for filing.

MSC: To find good cause for the late filing of the appeal.  
(Marshall/Henderson: 5-0)

The landlord's petition for approval of utility passthroughs to 14 of 794 units was approved. One tenant appeals the decision on the grounds that: the passthrough is being imposed cumulatively, rather than on an annual basis; and the allowable annual increase covers the landlord's increased utility costs, since utility charges were included in the base rent at the inception of the tenancy.

MSF: To accept the appeal and remand the case to the Administrative Law Judge to disallow imposition of two utility passthroughs simultaneously. (Marshall/Henderson: 2-3; Gruber, Hurley, Justman dissenting)

MSC: To deny the appeal. (Gruber/Hurley: 3-2; Henderson, Marshall dissenting)

D. 295 Graystone Terr. #1

AL070195

The tenant's hardship appeal of a capital improvement passthrough was granted on remand. The Administrative Law Judge found that the tenant experienced sufficient financial hardship to conditionally defer the passthrough unless and until the tenant obtains employment or her financial circumstances change. The landlord appeals the remand decision, asserting that: the appeal should not have been accepted and remanded for hearing, because it was filed four years after the decision was issued and the Ammiano amendments were not applicable; the tenant only filed the appeal because of the landlord having filed for a second passthrough; the tenant's evidence was inconclusive, as not all monthly bills were provided; the tenant has engaged in elective spending and speculative



investments; and the tenant has sufficient income and resources to pay the passthrough.

MSC: Due to the untimely filing of the appeal, to remand the case to the Administrative Law Judge to vacate the decision and deny the tenant's hardship appeal. (Hurley/Gruber: 5-0)

E. 295 Graystone Terr. #1

AT070202

The landlord's petition for certification of capital improvement costs for two of four units was granted pursuant to a Minute Order. The tenant in one unit appeals the decision on the grounds of financial hardship.

MSC: To accept the appeal and remand the case for a hearing on the tenant's claim of financial hardship. (Marshall/Henderson: 5-0)

F. 373 Duncan St. #2

AL070197

The tenant's petition alleging unlawful rent increases was granted and the landlord was found liable to the tenant in the amount of \$23,735.92. The landlord's appeal on the grounds that the premises was a "Newly Covered Unit" under Proposition I was accepted and remanded for a hearing on the tenant's rent history. In the Decision on Remand, the Administrative Law Judge found the landlord liable for \$12,237.98 in rent overpayments. The landlord appeals the remand decision, arguing that: for purposes of applying the limitation on refund of rent overpayments, the date that the tenant filed her complete petition should be used, since her original filing was incomplete; and the landlord was prejudiced because almost two years elapsed from the time of filing to the hearing on this matter, which greatly increased his liability for rent overpayments.

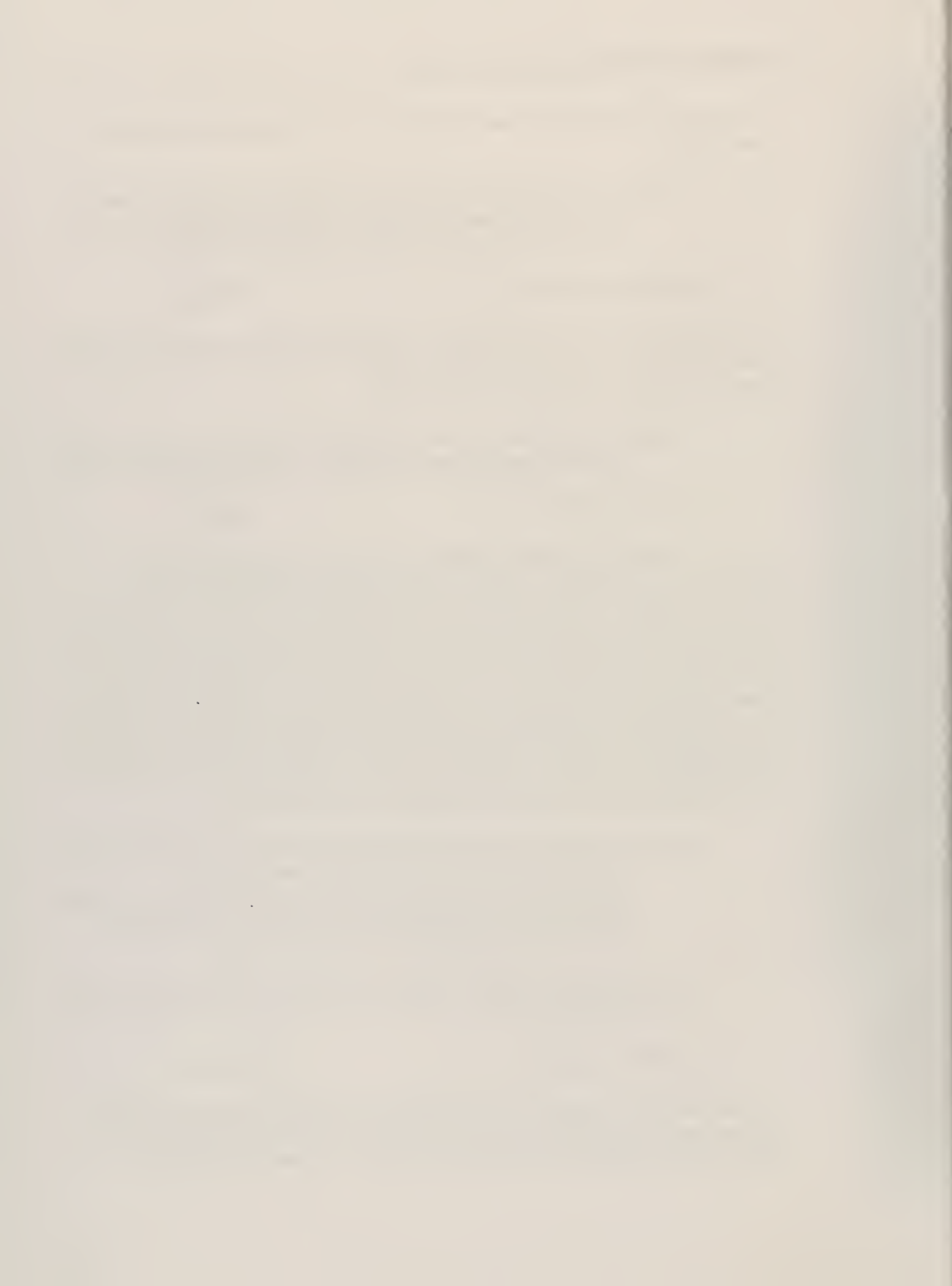
MSF: To accept the appeal and remand the case to the Administrative Law Judge to apply the limitation on refund of rent overpayments contained in Ordinance §37.8(e)(7) as of the date that the tenant's amended petition was filed. (Hurley/Gruber: 2-3; Henderson, Justman, Marshall dissenting)

MSC: To deny the appeal. (Marshall/Henderson: 3-2; Gruber, Hurley dissenting)

G. 1435 Golden Gate Ave.

AL070196

The tenants' petition alleging decreased housing services was granted and the landlord was found liable to the tenants in the amount of \$1,800.00 for an unsafe exterior deck and \$350.00 for unsafe rear stairs. The landlord appeals the



decision, claiming that: at the inception of the tenancy, the tenants were informed that the deck was unsafe and there was no commitment as to when repairs would be effectuated; the rental rate for the unit was discounted due to the unavailability of the deck; the deck repair would be an additional housing service added after the commencement of the tenancy; and the tenants failed to prove that the back stairs were structurally unsound.

MSC: To accept the appeal and remand the case to the Administrative Law Judge on the record to find that the deck was not included as a housing service at the inception of the tenancy; to deny the appeal as to all other issues. (Justman/Gruber: 4-1; Marshall dissenting)

H. 1111 Treat Ave.

AL070201

The tenant's petition alleging decreased housing services and requesting a determination as to the lawful base rent was granted and the landlords were found liable to the tenant in the amount of \$1,103.25 for rent overpayments and \$6,250.00 due to habitability problems on the premises. On appeal, the landlords claim that: the \$200.00 per month rent increase was authorized by Rules §6.14 because the Master Tenant was not an original occupant of the unit and the last of the original tenants had vacated; the transfer of utility charges to the tenant was allowable because the landlords had the right to renegotiate the lease terms with any holdover occupants; the tenant failed to verifiably complain regarding the lack of heat until February of 2007, rather than September of 2005, which also proves that the problem was not substantial; the tenant failed to prove the value of the decreased housing services; and the landlords are entitled to discovery and to have these claims decided by a jury.

MSC: To deny the appeal. (Marshall/Henderson: 5-0)

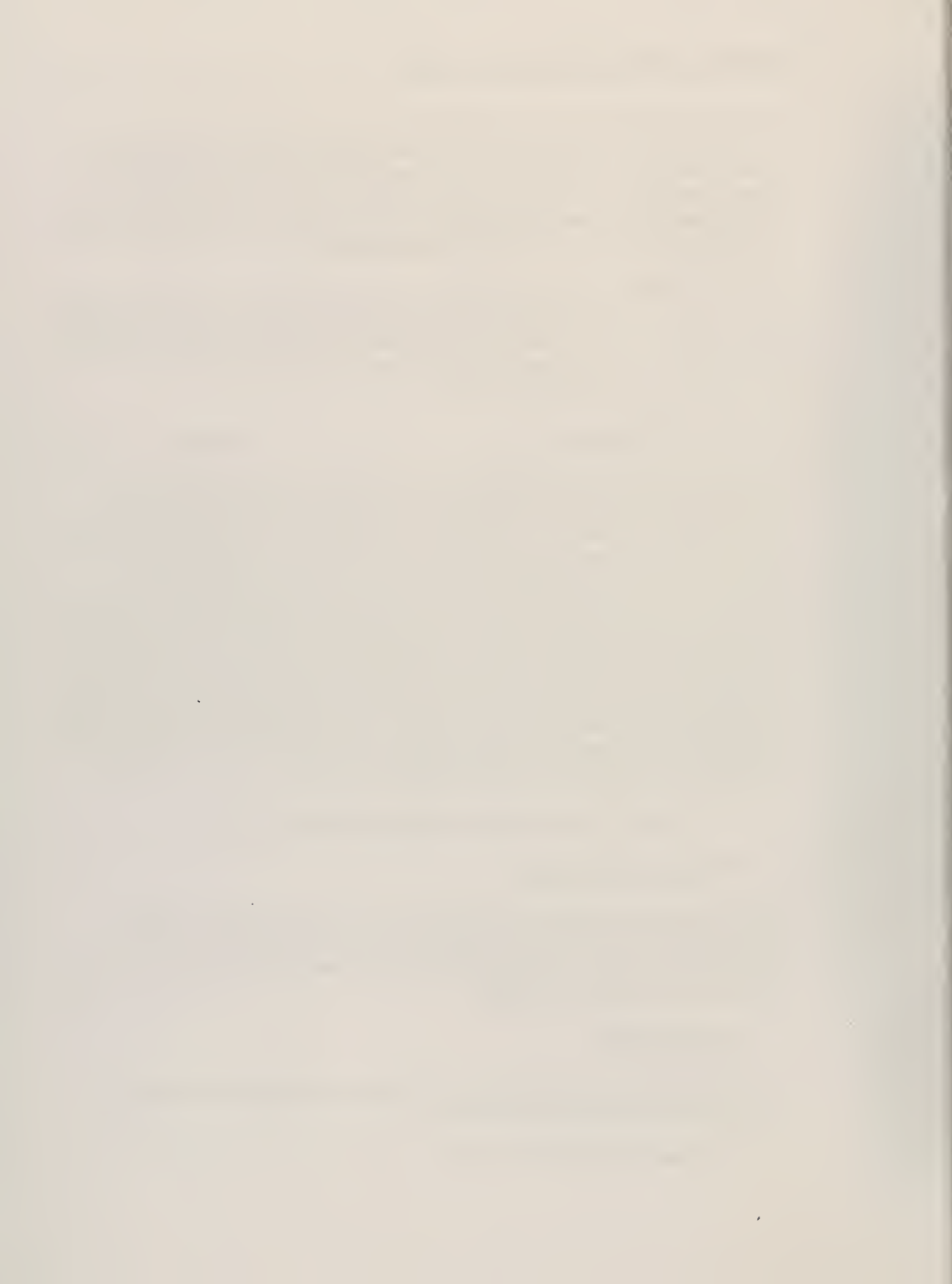
V. Remarks from the Public

Maria Castellucci, agent for the landlord at 1111 Treat (AL070201), told the Board that she has made several attempts to fix the defects in the unit. She reported that the tenant said she didn't want a second heater because she would then have to pay higher utility bills.

V. Communications

In addition to correspondence concerning cases on the calendar, the Board received the following communications:

A. A new Commissioners' roster.



B. Several articles from BeyondChron, the New York Times, the S.F. Bay Guardian and the S.F. Examiner.

C. The final, approved Statement of Incompatible Activities for the Rent Board.

VI. Director's Report

Executive Director Wolf briefly discussed the mandatory Sexual Harassment Training that must be completed by December 31, 2008.

VII. Calendar Items

December 18<sup>th</sup> & 25<sup>th</sup>, 2007 & January 1<sup>st</sup>, 2008 - NO MEETINGS

January 8, 2008

9 appeal considerations

VIII. Adjournment

President Gruber adjourned the meeting at 7:32 p.m.











